SENATE—*Friday, February 25, 1972*

The Senate met at 10 a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who hast created man in thine own image, grant us grace fearlessly to contend against evil and to make no peace with oppression; and that we may reverently use our freedom, help us to employ it in the maintenance of justice among men and nations, and establish among them that peace which is the fruit of righteousness.

In daily toil, in private life and public ceremony, help us to serve Thee as a people of one nation under God, to the glory of Thy holy name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 25, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. EAGLETON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, February 24, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman and to the United Arab Emirates.

Mr. MANSFIELD. Mr. President, it was my privilege to meet Ambassador Stoltzfus, Jr., a Foreign Service officer, about 15 years ago in Aden. I was very much impressed with his knowledge, his perspicacity, and his understanding at that time.

I am delighted that Ambassador Stoltzfus, who is now accredited as our representative to Kuwait, has had his jurisdiction extended to include the Sultanate of Oman and the United Arab Emirates.

Ambassador Stoltzfus is a man of extraordinary capabilities, and I want the RECORD to show my high regard for this nomination and my deep appreciation of his courtesy down through the years and his understanding of the area to which he is now assigned.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ACTION

The second assistant legislative clerk read the nomination of Kevin O'Donnell, of Maryland, to be an Associate Director of ACTION.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nominations in the Overseas Private Investment Corporation, as follows:

Dan W. Lufkin, of Connecticut, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1974;

J. D. Stetson Coleman, of Virginia, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1974.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 602 and up to and including No. 608.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLINTON M. HOOSE

The bill (H.R. 1824) for the relief of Clinton M. Hoose, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–635), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay Clinton M. Hoose, $3,634.64 in full settlement of all his claims against the United States for the amount equal to a reduction in his salary from October 1, 1962, to October 30, 1964, while he was a contract employee of the Central Intelligence Agency. The reduction was required to comply with then applicable provisions of Federal law relating to restrictions on the concurrent receipt of civilian compensation and military retired pay, which provisions were later rendered retroactively inapplicable to certain retired officers by section 201(g) of the Dual Compensation Act of 1964.

STATEMENT

The facts of this case as contained in House Report 92–69 are as follows:

The Comptroller General in his report to the committee on the bill made no recommendation as to enactment of the bill. The

Central Intelligence Agency questioned relief.

Mr. Hoose retired for physical disability as a retired regular officer of the Army in 1957. His retirement was effected under section 515 of the Officer Personnel Act of 1947. At the time of his retirement and thereafter until the date of enactment of the Dual Compensation Act, Public Law 88–448, the employee was subject to the limitation on combined military retired pay and civilian compensation contained in said section 212 of the Economy Act of 1932, as amended (5 U.S.C. 59a (1964 ed.)). Following his retirement Mr. Hoose was employed by the CIA as a contract employee and in January 1962 the compensation payable under the contract was $9,215. However, effective October 1, 1962, at the request of Mr. Hoose the compensation payable under the contract was renegotiated to a lower figure, that is, $7,397.68. This lower figure was established to enable Mr. Hoose to receive his full retired pay thereby placing him in a more favorable income tax situation, it being recognized that section 212 of the Economy Act precluded his receiving combined civilian pay and retired pay at a rate in excess of $10,000 per annum. Thereafter the contract was extended through October 30, 1964.

Section 201(g) of the Dual Compensation Act provides as follows:

"(g) A member of any of the uniformed services, serving in the Army or Air Force of the United States without component, under an appointment made under section 515 of the Officer Personnel Act of 1947, in a temporary grade higher than, or the same as, the reserve commission he then held, who, prior to the effective date prescribed by section 403(a) of this Act, was retired for physical disability in such temporary grade, shall not be considered as subject to the restriction on the concurrent receipts of civilian compensation and retired pay contained in section 212 of the Act of June 30, 1932, as amended 5 U.S.C. 59a), for any period following such retirement."

The effect of the quoted statute was to exempt from the application the restriction contained in section 212 those officers to whom the quoted section applied. The exemption granted under the section was retroactive to the date of the retirement of the individuals concerned which completely nullified the restriction in the prior law, and the decisions of the General Accounting Office construing such restrictions, as it applied to such individuals. (See 44 Comp. Gen. 119.)

As pointed out above, effective October 1, 1962, and extending through October 30, 1964, the civilian compensation of Mr. Hoose was reduced voluntarily by agreement of the parties to an amount which when added to his retired pay would not exceed the limitation in section 212 of the Economy Act. While the purpose of such reduction obviously was to avoid violation of section 212, nevertheless, since it was accomplished by a reduction in his civilian compensation by voluntary action of the parties rather than by a reduction in his retired pay by operation of law, section 201(g) of the Dual Compensation Act would not appear to have any application. In this connection, the report of the Comptroller General stated "* * * we concur in the administrative view that legislation is necessary to grant the relief sought by Mr. Hoose."

The committee has determined that this is a proper case for legislative relief. The Central Intelligence Agency has pointed out that the employee agreed to the reduction. The fact that the reduction was made by a renegotiation of the contract rather than by operation of law is the very reason the remedial statute does not accord relief to Mr. Hoose. It also seems unfair to emphasize the fact that the individual made a choice of receiving disability pay due him under applicable law as a retired officer because the choice gave him a tax advantage. This was an advantage accorded him by Federal law and merely served to ameliorate the required reduction. However, that may be, the money to be paid as provided in this bill is still described as salary. In view of these considerations, it is recommended that the bill be considered favorably.

In agreement with the views of the House of Representatives, the committee believes that the bill is meritorious and recommends that it be favorably considered.

MRS. ROSE SCANIO

The bill (H.R. 2828) for the relief of Mrs. Rose Scanio, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–636), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Postmaster General, on such terms as he deems just, to compromise, release, or discharge in whole or in part, the liability to the United States of Rose Scanio, a window clerk at the U.S. Post Office, Melrose Park, Ill., for the loss resulting from a theft on December 18, 1967, at that post office.

STATEMENT

The Post Office Department in its report to the House committee indicated that it would have no objection to the bill since it provided the authority for discretionary relief.

As is outlined in the departmental report, on December 18, 1967, there was a loss of $1,511.03 in postal funds as a result of a theft from the post office at Melrose Park, Ill. The postal investigation disclosed that the funds were stolen from a tray or insert from a drawer that a window clerk, Mrs. Scanio, had placed on top of the counter at the service window where she worked. It is established that it was Mrs. Scanio's custom to work with the insert on the countertop. When she returned to the service window, after a brief absence, she discovered the cash was missing. It appears that a thief used a metal clothes hanger to pull the cash container through a 2-inch opening between the countertop and the bottom of the bars on the window.

The Post Office report noted that section 442.21 of the Postal Manual, which was in effect at the time the loss occurred, directed that postal funds be kept in places inaccessible to the public and concealed from view. The regulations further provided that when funds were not under continuous observation, they should be placed in a securely locked receptacle. Under these circumstances, it was concluded that Mrs. Scanio was negligent and liable for the amount of the cash lost by the theft.

In stating it had no objection to the bill, the Department stated:

We believe some relief should be granted to employees in cases of this kind. However, consideration should also be given to the fact that the employee was negligent. For this reason we concur in the language of H.R. 2828 which would authorize the Postmaster General, on such terms as he deems just, to relieve the named employee of liability in whole or in part with respect to the transaction involved. In view of the foregoing, the Postal Service has no objection to the enactment of H.R. 2828.

The committee notes that the relief provided in this bill would be provided by the enactment of language which has previously been approved by the committee. Examples of private laws in the current Congress granting relief in this form are Private Law 92–3, Private Law 92–5 and Private Law 92–7.

The committee agrees that this language provides the most practical means for reaching a just result in this case. It will enable the Postmaster General to grant relief in a manner which will recognize the interest of the Government, and the interest of the employee. In this connection it can be noted that the recently enacted revision of the postal laws now provide authority for relief in section 2601 of revised title 39 of the United States Code. It is recommended that the bill be considered favorably.

ROY E. CARROLL

The bill (H.R. 2846) for the relief of Roy E. Carroll was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–637), explaining the purposes of the measure

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Roy E. Carroll, of Wellesley, Mass., of liability in the amount of $1,365 for overpayment of active duty pay in the period from February 1963 through October 1964 as a result of administrative error on the part of Navy personnel with respect to allotments sent to his mother.

STATEMENT

The Navy in its report to the House committee stated it would interpose no objection to the bill's enactment. The Comptroller General in the report of the General Accounting Office questioned relief.

The overpayment referred to in this bill occurred when an allotment in the amount of $65 per month was not discontinued, when checkage of Mr. Carroll's account was discontinued. The allotment continued to be paid from February 1963 through October 1964, when the error was discovered, resulting in an overpayment of $1,365. At the time of Mr. Carroll's transfer to the Fleet Reserve on March 18, 1966, all of the overpayment except $727.32 had been liquidated. The remainder of $727.32 had been withheld from his retainer pay at a monthly rate. The final collection was made on July 31, 1967.

In its report to the House committee, the Department of the Navy stated that it is its policy not to oppose private relief legislation in cases of overpayment, which are made through no fault of the recipient, if the overpayment was neither detectable nor could reasonably be expected to be detected. Mr. Carroll's records in the Bureau of Naval Personnel contain two letters which bear on this case, one written by Mr. Carroll on March 16, 1965, prior to his transfer to the Fleet Reserve and another written by him on April 5, 1966. At the time of the overpayments Mr. Carroll was on active duty in the Navy as a photographer's mate first class (E–6). He indicates in these letters that in January 1963 he was transferred to the Naval Photographic Center, Washington, D.C., where his pay was changed from a twice-monthly to a biweekly system. At this time he had also applied for an allotment to his wife. He states that he noticed some irregularity in his pay but was assured by disbursing personnel that it was only a result of the changeover in the pay system. In October 1964 Mr. Carroll was transferred to the Naval Station, Roosevelt

Roads, P.R., where once again his pay was on the twice-monthly system. The discrepancy with respect to the allotment to Mr. Carroll's mother was discovered at this time.

The letters written by Mr. Carroll to the Bureau of Naval Personnel indicate that he did know his mother was receiving an allotment and did suspect that his pay was irregular. However, he appears to have made reasonable efforts to determine the correct status of his pay and was assured that his records were in order.

This committee requested the claimant to submit a statement outlining the details of his claim. The committee is of the opinion that his statement demonstrates that he made reasonable efforts to place the Navy Department on notice that there was an overpayment and that the overpayments were without fault on his part.

The committee has carefully considered the facts referred to in the letter of the Department of the Navy concerning the circumstances surrounding the overpayment. In line with the suggestion of that Department concerning the weight to be given the statements contained in this letter, the committee after consideration has concluded that they justify relief. Accordingly it is recommended that the bill be considered favorably.

LLOYD B. EARLE

The bill (H.R. 4497) for the relief of Lloyd B. Earle was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–638), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Army Claims Service to consider the claim of Lloyd B. Earle arising out of an automobile accident which occurred on February 20, 1967, involving a vehicle operated by a member of the U.S. Army.

STATEMENT

The facts of this case as contained in House Report No. 92–545 are as follows:

"A motor vehicle owned and operated by Mr. Lloyd B. Earle was involved in a collision with an Army vehicle on February 20, 1967. The Army vehicle was operated by an Army officer and in the accident, Mr. Earle was injured and his automobile was damaged.

"Mr. Earle's insurance agent, Palmer H. Goodrich, by letter dated April 18, 1967, notified the Army of Mr. Earle's intended claim against the Government. On May 2, 1967, the Staff Judge Advocate, 1st U.S. Army, replied: "Pursuant to your recent communication by which you indicated a desire to make a claim against the United States, enclosed are four copies of Standard Form 95, Claim for Damage or Injury, for use in formally presenting your claim." An instruction sheet was also enclosed. Neither the claim forms (SF 95) nor the instruction sheet specified a time limit on filing, but Mr. Earle's insurance adjuster erroneously advised the claimant "that he had 3 years to file a claim." Because Mr. Earle did not file his claim with the Army until April 1, 1969, 39 days after the applicable 2 years' time limit had expired, it was disallowed. He then filed an action in the Federal courts, but it was dismissed for the same reason.

"In indicating that it would have no objection to a bill authorizing consideration by the Army Claims Service, the Army stated it is not opposed to a waiver of the statute of limitations in this instance so that the claim may be processed through normal administrative channels. The Department took express notice of the fact that the insurance agent acting in Mr. Earle's behalf gave the Army notice of the claim less than 2 months after the accident. The accident was investigated without delay and therefore the Government's interests were not prejudiced by a late filing of a formal claim. It is for this reason that the Army has stated that it would be equitable under the facts of this case to give the claimant an opportunity to have his claim heard on its merits by the U.S. Army Claims Service. Accordingly, the committee recommends that the amended bill be considered favorably."

In agreement with the views of the House of Representatives the committee recommends that the bill be favorably considered.

NINA DANIEL

The bill (H.R. 4779) for the relief of Nina Daniel was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No 92–639), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Nina Daniel, a former cashier in the Accounting and Finance Office of the Stewart Air Force Base of liability of $4,250, based on a loss of money which occurred between October 24, 1969, and October 27, 1969, at the accounting and finance office at that airbase. The bill would authorize the refund of any amounts paid or withheld by reason of the liability.

STATEMENT

The Department of the Air Force in its report to the committee recommended favorable consideration of the bill.

The Department of the Air Force in its report stated that—

"From November 1968, until deactivation of Stewart Air Force Base in December 1969, Mrs. Daniel served as a cashier in the accounting and finance office. Her duties included payment of certified vouchers and cashing of payroll checks for members of the uniformed services assigned to the vicinity of Stewart Air Force Base. She normally transacted between $5,000 and $8,000 cash business daily with the volume reaching as high as $30,000 on payday. Prior to her assignment to this GS–5 position, Mrs. Daniel received training in the proper procedures for accounting for funds entrusted to her, for safeguarding the funds and for the proper storage of the funds during other than regular business hours.

"When she reported for duty on Monday, October 27, 1969, Mrs. Daniel noted that it appeared some of the cash was missing. An audit of her account showed a shortage of $4,250. Investigation by the Federal Bureau of Investigation and the Office of Special Investigations failed to provide conclusive evidence as to the person or persons who took the money. A board of officers, convened to determine the proximate cause of the loss, developed that on Friday, October 24, 1969, after accounting for all cash and other transactions, Mrs. Daniel placed the cash in the safe located in the accounting and finance office. After locking the safe, and shortly before closing time, her supervisor requested she make a cash payment to a transient soldier. She unlocked the safe, removed the cash and made the payment. During the board proceedings, she admitted that after making the payment, she might have left the cash out of the safe in an unlocked drawer where she found a small portion of it Monday morning. The board concluded that the loss of $4,250 was caused by Mrs. Daniel's negligence in not placing the cash in the safe and locking it before leaving the office on Friday. The board recommended she be held pecuniarily liable for the loss.

"Through her attorney, Mrs. Daniel appealed the findings and recommendation of the Secretary of the Air Force. Under the law (31 U.S.C. 95a), if the Secretary determines that a loss was in line of duty and occurred without fault or negligence on the part of the individual responsible for the funds, the Secretary may relieve the individual of liability for the loss. In Mrs. Daniel's case, the Secretary determined the loss was the result of negligence on the part of Mrs. Daniel and, therefore, she could not be relieved of liability for the loss under the provisions of the law."

The Air Force states that there are no administrative procedures under which Mrs. Daniel may be relieved of the liability which is the subject of this bill. It is recognized that she incurred this indebtedness as the result of the performance of her official duties with the Air Force. The Department states that the investigation of the loss established that there was no fault on the part of Mrs. Daniel and further that at all times she had demonstrated her good faith in the performance of her duties.

Mrs. Daniel has been employed by the Federal Government for more than 17 years. The Department of the Air Force states that during her service as an employee of the Air Force, she was a diligent, conscientious, and trustworthy employee. After deactivation of the Stewart Air Force Base, she took a job with the U.S. Military Academy at West Point, N.Y. and at the time of the Air Force report was employed at the Academy. The information supplied to the committee indicates that restitution of the loss would cause Mrs. Daniel severe financial hardship because of her relatively low income and because her husband, who had been employed by the Academy, was being considered for retirement from his Government position because of several heart attacks.

In recommending the relief provided in this bill, the Department of the Air Force recognized the financial hardship aspect involved in the case and took notice of Mrs. Daniel's otherwise outstanding employment record. In this connection the Department stated:

"In view of the financial hardship aspects involved, and Mrs. Daniel's otherwise outstanding employment record, we believe it would penalize her severely to require that she make restitution to the United States in the amount of this loss.

"In view of the foregoing, the Air Force recommends favorable consideration of H.R. 4779."

In view of the favorable recommendation of the Department of the Air Force and the particular facts of this case, the committee has concluded that this matter is a proper subject for legislative relief.

The committee is advised that an attorney has rendered services in connection with this matter. Accordingly, the bill contains the customary attorney fee limitation.

SALMAN M. HILMY

The bill (H.R. 6998) for the relief of Salman M. Hilmy was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 92–640), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Comptroller General of the United States to settle and adjust the claim of Salman H. Hilmy, an employee of the U.S. Information Agency, for reimbursement of the amount he was required to pay in settlement of a default court judgment rendered by a local court in Rhodes, Greece. The bill limits the amount which may be allowed in full and final settlement of the claim to $843.33.

STATEMENT

The bill H.R. 6998 was introduced as recommended by the Comptroller General of the United States in a communication to the Speaker of the House of Representatives dated March 24, 1971. The Comptroller General recommended relief for Mr. Salman M. Hilmy in accordance with the Meritorius Claims Act provisions of 31 U.S.C. 236 (act of April 10, 1928; 45 Stat. 413).

In his report, the Comptroller General stated that Mr. Salman M. Hilmy, an employee of the U.S. Information Agency, was assigned to the Radio Program Center on the island of Rhodes, Greece. The bill would make it possible to reimburse him in an amount not to exceed $843.33 for a payment he was forced to pay his former landlord in Rhodes in settlement of a default court judgment taken against him by the landlord. The committee has reviewed the facts as outlined in the communication and as set forth in additional information submitted to the committee by the Comptroller General, and concluded that relief is merited because the default judgment was taken against the employee after he had relied on information given him by his superiors to the effect that he was protected against such a result by reason of his official status.

The history of this matter dates back to April 1, 1966, when Mr. Hilmy entered into a 1-year lease for a house in Rhodes. He was notified by his landlord by letter, dated Febuary 9, 1968, that if he renewed his lease for 1 year, the rent would be increased to a stated amount, and that if he planned to vacate the house, he should notify the agent at least 30 days before expiration of the lease. Mr. Hilmy did not respond to the letter, but did remain in possession of the house after March 31, the expiration date of the lease. The reason for his inaction in regard to the letter was the Government quarters which the U.S. Information Agency was planning to provide, while not ready for immediate occupancy, would shortly be available and that he would be required to move into same. Prior to the expiration of the lease, Mr. Hilmy's superior officer advised him to remain in his house and that because of diplomatic immunity he would not incur any liability to his landlord other than for rent for the period of occupancy. Subsequent to expiration of the lease Mr. Hilmy was notified that his Government quarters would be available for occupancy on July 1, 1967. On May 19, 1967, he wrote to his landlord's agent advising of his intent to vacate the house on July 1, 1967. He was thereafter advised by his landlord, for the first time, that by his holding over after March 31, 1967, he had extended his lease for 1 year and that he would be held liable for the rent for that period, and that this would be enforced by court action if necessary. Mr. Hilmy reported this to his superior officers and was advised that because of his diplomatic immunity he should ignore the threat.

Suit was filed on or about July 19, 1967, in the magistrate's court of Rhodes by the landlord. Mr. Hilmy again consulted his superior officers and was instructed that because of his diplomatic immunity he should not appear in court to defend the suit. This advice was based upon instructions received from the American Embassy in Athens. The Embassy also instructed the USIA office in Rhodes to send a letter to the same effect to the court. Such a letter was sent and included a statement that the U.S. Embassy would submit a note verbale to the Royal Ministry of Foreign Affairs in reference to the lawsuit and to the diplomatic status of Mr. Hilmy. Although the record is not clear in this respect, it indicates that such a note verbal was sent on or about October 20, 1967.

In the meantime, however, a default judgment was rendered on or about September 5, 1967. Attempts to establish diplomatic immunity in this legal action were unsuccessful with the result that Mr. Hilmy's automobile was impounded by the Rhodes authorities in February 1969 for his failure to satisfy the default judgment. A compromise settlement was subsequently negotiated with the former landlord, and the automobile was released in October 1969 upon payment by Mr. Hilmy of $843.33.

Mr. Hilmy submitted a claim to the U.S. Information Agency for reimbursement of the amount expended by him inasmuch as his failure to appear in court was by reason of advice and instructions given by his superiors. The Agency, in submitting the claim to the General Accounting Office, stated:

"The Agency believes that this claim is meritorious, and is perfectly willing to honor it. However, there is doubt as to our legal authority to do so. Therefore, your decision is requested as to (A) whether or not we may properly certify the claim for payment or (B) if not, whether we may pay to Mr. Hilmy an amount not in excess of $843.33 as and for the allowance for quarters to which he would have been entitled had he remained in his landlord's house through March 31, 1968."

There is no basis upon which payment may be authorized by the General Accounting Office since it is an established rule of law that, absent a specific authorizing statute, the United States, as sovereign, may not be obligated or made liable for the erroneous or unauthorized acts of its officers or employees even though expenses may have been incurred by another party as a result thereof. With respect to the question of payment at this time of an amount not in excess of the allowance for quarters to which Mr. Hilmy would have been entitled had he remained in the rented quarters, the Comptroller General noted that the applicable regulations (sec. 132.43, standardized regulations (Government Civilians, Foreign Areas)) require the termination of such allowance on the date immediately preceding that on which the Government quarters are made available, in this case, July 15, 1967.

On the basis of the factual and legal basis detailed above, the Comptroller General concluded that Mr. Hilmy's claim is deserving of consideration by the Congress because of the equities involved in the matter. The committee agrees that under these specific circumstances, it is unfair to compel the employee to bear this financial loss. Accordingly, it is recommended that the bill be considered favorably.

ROBERT J. BEAS

The bill (H.R. 7871) for the relief of Robert J. Beas was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–641), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Postmaster General on such terms as he deems just, to compromise, release, or discharge either in whole or in part the liability of Robert J. Beas for the loss of a package of registered mail while he was employed at the U.S. post office at Cleveland, Ohio. In the event of any waiver, the bill would permit the refund of any amounts repaid to the extent of the amount of the relief granted.

STATEMENT

On August 29, 1960, in the course of his duties as an employee of the Cleveland, Ohio Post Office. Mr. Beas was given the task of delivering certain registered mail. The package of registered mail referred to in the bill was a package addressed to Merka Jewelry in Cleveland, Ohio, and was insured for $800. The Post Office Department report on an earlier bill outlines the circumstances of the loss by stating that Mr. Beas placed the package in a sack to be relayed to a storage and collection box and that when he unloaded the relay sack on his postal route the register could not be found. Since the Post Office Department report raised a question concerning the bill and stated that regulations prohibited the placing or registered mail in a postal relay sack, the committee sought additional information.

The information submitted to the committee indicates that the circumstances of the loss may not be as simple as those outlined in the Post Office Department report. In preparing his mail, Mr. Beas was required to work at an aisle in the post office which was located in what was in effect a main thoroughfare to and from passenger elevators. He was in an exposed position and appears to have been given little privacy or security to enable him to protect a registered package such as is involved in this case. However, in order to secure his mail, he had to travel away from his case and make trips up to two-thirds the length of the post office building. In a letter sent by Mr. Beas to the sponsor of a previous bill, Mr. Beas said that he is not certain just what happened to the registered package. He signed the receipt and had it with the letters for the Merka Jewelry Co. He delivered the company's material as a part of the last third of his route. When he emptied the last relay sack, he did not have the package in his mailbag or the relay sack. His custom was to put registered mail in his mailbag. When he found that the Merka Jewelry Co. package was not in his mailbag, he apparently concluded that there was a possibility that it could have been sent out in the relay sack.

The committee has considered this matter in the light of all of the circumstances of this case and has concluded that the best and most equitable manner of resolving this matter would be to confer authority on the Postmaster General, in his discretion, to consider whether relief should be extended in an appropriate degree in this instance.

It appears that Mr. Beas was in no way accused of wrongdoing. The Post Office Department report grounds is opposition on a lack of due caution. The committee understands that Mr. Beas was retained as an employee of the post office.

In the 90th Congress, and in two previous Congresses, the House Judiciary Committee considered bills which would have had the effect of relieving Robert J. Beas of the full amount of the $800 loss. However, the House committee now feels that the language recommended in the bill as passed provides for a full consideration of all aspects in the case. The language has the advantage of permitting a fair resolution of the matter in that the relief granted can take into consid-

eration the entire situation including the existence of any negligence. It will enable the Postmaster General to grant relief in a manner which will recognize the interest of the Government, and the interest of the employee. In this connection it can be noted that the recently enacted revision of the postal laws which will take effect in the future provides similar authority for relief in section 2601 of revised title 39 of the United States Code. This committee is in agreement with the conclusion reached by the House Judiciary Committee, and accordingly recommends favorable consideration of H.R. 7871 without amendment.

GOV. REUBIN O'DONOVAN ASKEW

Mr. MANSFIELD. Mr. President, one of the men whom I greatly admire in this Nation today is Gov. Reubin O'Donovan Askew of the State of Florida. I think he has done an outstanding job since assuming his duties, a little under a year and a half ago, as Governor of that great State.

He is a man of courage, understanding, and knowledge.

I ask unanimous consent that excerpts from an article published in this morning's Wall Street Journal, entitled "Busing: Governor Askew Takes a Stand," written by Norman C. Miller, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 25, 1972]

GOV. ASKEW TAKES A STAND

(By Norman C. Miller)

TALLAHASSEE, FLA.—Reubin O'Donovan Askew has come a long way since he shot out of nowhere 16 months ago to win election as governor.

Making good on a campaign pledge, he has pushed through the state's first income tax on corporations over the powerful opposition of big business interests. Despite that bruising year-long tax fight, he has established himself as a remarkably popular governor and emerged as a national figure in the Democratic Party. He has been named keynoter of the party's July convention and he is talked about as a possible vice presidential nominee.

In short, at 43 years of age, the gray haired six-foot native of Pensacola is a rising political star with a brilliant future. But now he is laying that future on the line, taking the unpopular side in an emotion-charged fight that could destroy him politically—or, just possibly, show him to be one of the most persuasive political leaders in the nation.

The fight is over busing for racial balance, the overriding issue of this state's presidential primary campaign. George Wallace's entry in the primary first stirred antibusing sentiment. Then, last week, the state legislature brought the issue to a boil by voting to place an unusual straw-vote measure on the March 14 ballot. It will ask Floridians if they favor an amendment to the U.S. Constitution prohibiting "forced busing" of children.

No politician here doubts that at this moment Floridians would overwhelmingly approve the antibusing amendment. In cities around the state, extensive busing was instituted under court orders last September and more looms next fall. Resentment among white parents is intense, and state legislators, all of whom must run in new districts in November, were playing to that resentment when they passed the straw-vote measure over Gov. Askew's strong opposition.

NO VETO, BUT . . .

The governor did not have the votes to sustain a veto, but at his insistence the legislature did approve a companion measure that seeks to offset the forced-busing question. It asks Floridians to affirm a commitment to "equal education opportunity" for all children and to specifically reject a "return to the dual school system." Signing the legislation, Gov. Askew stated his personal opposition to the antibusing measure and urged Floridians to approve the second measure to demonstrate that "Florida is not a racist state."

He could have let it go at that; most politicians here thought he would. Mr. Askew chose otherwise, although nothing in his personal or political history before becoming governor could have foreshadowed his decision.

Born poor, he grew up in the Florida panhandle, a social and political extension of south Alabama, the heart of "Wallace country" today. A Presbyterian and a Mason, he abstains from smoking and drinking. Before becoming governor, he served 12 uneventful years in the state senate, becoming an expert on government finance, but rarely sticking his neck out on issues that could upset his conservative Pensacola constituency.

As governor, however, he has consistently taken progressive, populist stands on a broad range of issues—stands that seem to grow more out of deep personal conviction than on political calculation. "Too many people are analyzing this (the effect of the busing issue) in terms of the campaign," he said during a three-hour interview the other day. "We had better be concerned instead about the effect on the country long after the campaign is over."

"I personally feel that 22 million black people are looking to see if this country is going to keep the faith," he continued, "and go forward with the thrust of the Brown decision," the 1954 Supreme Court decision ordering schools in the South to desegregate. "And we must do that. This country can't stay together unless we learn to live together."

The governor's decision to risk his political future seems rooted in his belief that the emotional controversy over busing, unless checked, could gravely damage the public school system. An intense note enters his voice as he declares that he himself could not have succeeded without his own public school education.

Now he sees the blacks in much the same position as he was himself in the poverty of his youth. Good public education is fundamental to black self-improvement, he believes, and blacks will have no chance without white support of integrated schools. Demonstrating his own commitment, he sends his two children to a public grade school here; it is 40% black.

In political terms, Gov. Askew believes moneyed interests have manipulated historic racial divisions between have-not whites and blacks to keep control of government in much of the South. In his own 1970 race for governor, Mr. Askew upset what he calls the "special interests" and forged a coalition of both whites and blacks. Now he fears the housing issue could irreparably split that coalition.

TAKING IT TO THE PEOPLE

So Mr. Askew decided to take his argument to the people. All through last weekend, he and two aides worked on a speech that he hoped would at least cool emotions if not turn the antibusing tide. It was past midnight Sunday when they finished; 13 hours later he would begin to speak.

The occasion he chose, opening day of the Central Florida State Fair at Orlando seemed incongruous. Lighthearted holidayers strolled in the pleasant sunshine. A Navy band played pop tunes. The governor would speak in a county where, in a straw vote accompanying local elections last November, voters had registered 9-to-1 approval of a contstitutional amendment to bar busing.

In this atmosphere, the 25-minute speech Mr. Askew delivered must be considered an act of rare political courage.

"I come before you today to say a few things with which you may disagree," he began, "a few things which are decidedly unpopular, but a few things which I feel must be said in the interest of Florida and her people—all of them. . . .

"I strongly oppose a constitutional amendment to outlaw busing—not because I particularly like it or think it's a panacea for our problems. . . . Busing is an artificial and inadequate instrument of change. It should be abandoned just as soon as we can afford to do so."

Mr. Askew paused, measuring his silent audience, then continued in a rising voice: "Yet by the use of busing and other methods, we've made real progress in dismantling a dual system of public schools in Florida. And I submit that until we find alternative ways of providing an equal opportunity for quality education for all . . . until we can be sure that an end to busing won't lead to a return of segregated public schools . . . until we have those assurances, we must not unduly limit ourselves, and certainly not constitutionally.

"We must not take the risk of seriously undermining the spirit of the Constitution, one of the noblest documents ever produced by man. And we must not take the risk of returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place."

The governor continued quietly. "I certainly hope that the overwhelming majority of Floridians are committed to the goal which busing was designed to pursue. That goal is to put this divisive and self-defeating issue of race behind us once and for all."

The audience remained silent. Mr. Askew continued: "I think we're well within reach of understanding one another, caring for one another and affirming our principles of justice and compassion which made this country what it is today. How sad it will be if we turn back now—not only for minority children—but for all of us.

"Of course we don't want our children to suffer unnecessary hardships. That goes without saying. But neither do we want our children to grow up into a world of continuing racial discord, racial hatred and, finally, a world of racial violence. . . .

"It is my hope that we're moving beyond racial appeals here in Florida and in the rest of the South as well. I say it's time we told the rest of the nation that we aren't caught up in the mania to stop busing at any cost, that we're trying to mature politically down here, that we know the real issues when we see them, and that we no longer will be fooled, frightened and divided against ourselves. . . .

"I hope we can say to those who would keep us angry, confused and divided that we're more concerned about a problem of justice than about a problem of transportation, and that while we're determined to solve both, we're going to take justice.

"It is not my intention to impose my will on anyone," he said quietly. "But it is my intention to give the people of Florida cause for sober reflection, so that they're sure—very sure—before they encourage an amendment to the United States Constitution, one that for the very first time, I believe, would seek to reverse our efforts to make that great document a living testimony to the pursuit of liberty, freedom and justice—for all."

Not a sound had interrupted the governor's speech, but at the end the crowd of 400 stood and applauded him warmly. That did not mean they all agreed with him. "Probably 90% of the people are against

him on this issue," snapped one young Orlando businessman as he left the auditorium. "I know I can't go along with him."

But Gov. Askew did accomplish his purpose with some listeners. "I have reservations about some of the things he said, but he made me stop and think," said Gordon Savage of Leesburg, who has three children involved in busing. "I am very much opposed to busing, but the governor opened new vistas for me to consider. I am not as sure of my vote now as I was before."

It is Gov. Askew's ability to convince people of his own sincerity that has accounted for his political success to date.

His campaign for the corporate income tax was the most prominent previous example. In a state where politics had long been dominated by anti-tax business interests, Mr. Askew made the proposed tax the centerpiece of his 1970 campaign. And he beat a bevy of better-known Democrats in the primary, then walloped Claude Kirk, the flamboyant Republican incumbent, in November.

Then, since the state constitution barred all income taxes, Gov. Askew had to undertake another state-wide campaign. Again over the opposition of powerful business lobbyists, he got the legislature to approve a referendum seeking to change the state constitution. Then, campaigning against well-financed opposition, he stumped the state for months; it was time for big business to "pay its fair share," he argued. The voters approved last November by an amazing 70% margin. Finally, the legislature approved the 5% corporate tax and also most of Gov. Askew's proposals to ease certain taxes on consumers.

AN APPEAL FOR ACCEPTANCE

Perhaps significantly, Gov. Askew's corporate-tax campaign also was endangered by the busing issue at one point. Last August there was widespread speculation in the state that court-ordered busing would result in violence when the schools opened. Then, on the same night that George Wallace and former Gov. Kirk had scheduled antibusing speeches in Florida cities, Gov. Askew appealed for acceptance of busing.

"The law demands, and rightly so, that we put an end to segregation in our society," he said in that Aug. 28 speech. "We must demonstrate good faith in doing just that. . . .

"We must stop inviting, by our own intransigence, devices which are repugnant to us," he continued. "In this way and in this way only will we stop massive busing once and for all."

That speech was widely credited with calming a potentially dangerous situation. Some aides feared the speech would damage the governor's popularity and imperil his tax program; neither happened.

Now some think the busing issue is erupting with more force than ever. The reason, says Cecil Hardesty, superintendent of Jacksonville's school system, is that white parents and their children have actually experienced busing now. Mr. Hardesty expresses admiration for Gov. Askew's stand, but adds gloomily: "He probably is going to destroy himself politically this time."

If Gov. Askew shares this worry he does a masterful job of concealing it. He promises to continue to speak out frequently. "Whatever risks may be in it for me," he says, "are small alongside the risks for the people for their future."

VIETNAM AND OUR PRISONERS OF WAR AND MIA'S

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from a constituent in Montana which I should like to read in part at this time.

This young girl writes:

Anyway, I was reading the paper, not really comprehending anything for my mind was concentrating on this "creatures of habit" idea. Americans are slaves to habit. I don't know why, but I think a large part of the answer lies in the fact that we are victims of the status quo. We cling to the way things are because it gives us a sense of security. The idea that our craving for security prevents us from taking innovative action to solve our seemingly unsolvable problems of today is repellent to me but I fear it is true. Change is new—it's foreign, and because of it we view the future between closed fingers held tightly over our eyes.

As I wrote earlier, I was reading the paper this morning and (as usual) I turned to Dear Abby first (despite all the yokes she seems to be a remarkable person). In today's paper Dear Abby wrote a letter to her readers, in contrast to her usual format (truly a remarkable person!). In her letter she asked her readers, who were concerned about our POW's, to write to their Congressmen and Senators, which is what I am doing now. Again, I don't know why for to me there is no conceivable logic in one letter altering even a minute fraction of the United States' policy concerning our POW's.

Nevertheless, with all the hopelessness and futility that has accumulated within me since I first became aware of the war, I am writing to you today, pleading with you to force our government to quit bartering with the lives of our POW's when all that we have to lose is our honor and prestige. If I am wrong in this assumption—if there exists a more convincing reason, please, I would appreciate knowing what it is. I really can't feature the U.S. sweating over a possible loss of national prestige when lives are at stake—lives sacrificed by and for the U.S. People tell me I am naive and smile indulgently at my "idealistic" outrage while they complacently accept the situation because they have grown "realistic" with adulthood. I'm only 17 but the U.S. has made me feel like a very old person. My "idealism" is nearly gone and my conversion into a "realistic" adult is nearly complete. As you can see, I've already assumed the passive, letter-writing role of a "realistic" adult and that will be the extent of my adult "outrage."

P.S.—I'm sorry that this letter is bitter, and I'm sorry that my brother was born mongoloid and I'm sorry that we have slums and I'm sorry that our planet is slowly being destroyed by pollution—but that doesn't change anything. The destruction of our planet, the existence of slums—both are conditions as irreversible as my brother's mongolism. The prisoner of war situation is the same way. Needless to say, I'm sorry for it, too.

Mr. President, I ask unanimous consent to have the text of the entire letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. MANSFIELD: It's 8:30 in the morning where I live, and because I'm a creature of habit, 8:30 in the morning always finds me reading the local newspaper. Since today is Sunday, the paper is especially large. I don't know why it's been that way for as long as I can remember—perhaps the Tribune staff is also a creature of habit.

Anyway, I was reading the paper, not really comprehending anything for my mind was concentrating on this "creature of habit" idea. Americans are slaves to habit. I don't know why, but I think a large part of the answer lies in the fact that we are victims of the status quo. We cling to the way things are because it gives us a sense of security. The idea that our craving for security prevents us from taking innovative action to solve our seemingly unsolvable problems of today is repellant to me but I fear it is true. Change is new—it's not foreign, and because of it we view the future between closed fingers tightly held over our eyes.

I've babbled for nearly a page now so it's time I reached the gist of my letter. As I wrote earlier, I was reading the paper this morning and (as usual) I turned to Dear Abby first (despite all the jokes she seems to be a remarkable person). In today's paper, Dear Abby wrote a letter to her readers, in contrast to her usual format (truly a remarkable person!). In her letter she asked her readers, who were concerned about our POW's, to write to their Congressmen and Senators, which is what I am doing now. Again, I don't know why for to me there is no conceivable logic in one letter altering even a minute fraction of the United States policy concerning our POW's.

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I'm going to quit babbling now. I've stated my plea and I'm going to end this letter and I'm going to try to obliterate forever from my mind that I indulged in such a useless form of protest as letter-writing. But, at least, if anyone asks me if I've done something about the POW situation rather than just complain, I can say I have. Yes, I've written to my Senator and because of my letter and thousands like it, every POW that is in Vietnam will remain in Vietnam. From nowhere to nowhere. It doesn't exactly give me that pat-myself-on-the-back feeling of accomplishment, but what else can I do?

N.C.

P.S.—I'm sorry that this letter is bitter, and I'm sorry that my brother was born mongoloid and I'm sorry that we have slums and I'm sorry that our planet is slowly being destroyed by pollution—but that doesn't change anything. The destruction of our planet, the existence of slums—both are conditions as irreversible as my brother's mongolism. The prisoner of war situation is the same way. Needless to say, I'm sorry for it, too.

Mr. MANSFIELD. I wish to commend this young woman for pouring out her heart to a Senator from her State. I assure her that, so far as I am concerned, I do not intend in any way, shape, or form to give up in my efforts, not only to bring about the release of the prisoners of war and the recoverable missing in action, but also to bring an end to this tragic war, as well.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be heard?

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, I should like to inquire of the distinguished ma-

jority leader what will be the schedule following the vote on the bill now before the Senate.

Mr. MANSFIELD. Mr. President, in response to the question of the distinguished minority leader, it is the intention of the joint leadership on Wednesday next, following the conclusion of the measure that is pending, or as soon thereafter as possible, to take up conference reports on the Inter-American Development Bank, the Asian Development Bank, and the International Development Association, the conference report on AID, and the nominations of Mr. Kleindienst and Mr. Gray. It is hoped that by that time the equal rights amendment will be ready. If it is not ready, we will then take up the bill to increase the price of gold from $35 to $38 a fine ounce.

Before we get to that controversial legislation, we shall take up one other measure, the bill to increase the debt limit, if it has been reported by the committee.

There is one other measure that I cannot recall at this time, but I shall place it in the RECORD, to indicate what the complete schedule will be.

Mr. SCOTT. I thank the majority leader. I express the hope that we might perhaps move up to an early date the measure for the revaluation of gold, because I am advised by the Treasury that the sooner that bill is passed, the sooner we can expect a greater stabilization in the currency market.

Mr. MANSFIELD. I will discuss the matter with the chairman of the Committee on Banking, Housing, and Urban Affairs, the distinguished Senator from Alabama (Mr. SPARKMAN). He has informed me that he will discuss the matter with the ranking minority member of the committee, the distinguished Senator from Texas (Mr. TOWER). If there is no opposition—and I know of none at the moment—we will expedite the consideration of that measure in accordance with the wishes of the distinguished minority leader.

Mr. SCOTT. I do appreciate the statement of the distinguished majority leader.

Mr. President, I am not about to move to declare a national holiday to celebrate the event, but I do want to congratulate the Presiding Officer (Mr. EAGLETON), who is the Acting President pro tempore. I have heard with delight many times intriguing stories of the enormous clout wielded by him when he was Lieutenant Governor of his State. We are proud to have him in the Chair; but that does not put him in the line of succession to the Presidency, much as I regret it.

TRANSACTION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with Senators being recognized for not to exceed 3 minutes each.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON CERTAIN FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE NAVAL AND MARINE CORPS RESERVES

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on certain facilities projects proposed to be undertaken for the Naval and Marine Corps Reserves (with an accompanying report); to the Committee on Armed Services.

PROPOSED STANDARDS, RULES, AND REGULATIONS OF THE COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a copy of propsed standards, rules, and regulations promulgated by that Board (with an accompanying document); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF OFFICE OF CIVIL DEFENSE, DISTRICT OF COLUMBIA

A letter from the Mayor-Commissioner, District of Columbia, transmitting, pursuant to law, a report of the Office of Civil Defense for the District of Columbia, for fiscal year 1971 (with an accompanying report); to the Committee on the District of Columbia.

PROPOSED ENVIRONMENTAL PROTECTION TAX ACT OF 1972

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation entitled "The Environmental Protection Tax Act of 1972" (with an accompanying paper); to the Committee on Finance.

REPORT OF GOVERNOR OF GUAM

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report of the Governor of Guam, for the year 1971 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON NEGOTIATED SALES CONTRACTS FOR DISPOSAL OF MATERIALS

A letter from the Assistant Director of Technical Services, Department of the Interior, transmitting, pursuant to law, a report on negotiated sales contracts for disposal of materials, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Interior and Insular Affairs.

OPINION IN CASE OF EDWARD WHITE RAWLINS V. THE UNITED STATES

A letter from the Chief Commissioner, U.S. Court of Claims, transmitting, pursuant to law, the opinion and findings of fact in the case of Edward White Rawlins v. the United States, Cong. Ref. 1-69 (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. EAGLETON):

A resolution of the Senate of the Commonwealth of Puerto Rico; to the Committee on Finance:

S.R. 389

"Resolution to request from the Congress of the United States to amend section 224 of Title II of the Federal Social Security Act (as amended) for the purpose of eliminating everything relative to the Offset Procedure.

"STATEMENT OF MOTIVES

"By virtue of section 224 of Title II of the Social Security Act, the social security benefits of the disabled worker and his family may be adjusted from those months from January of 1966 up to the preceding month, inclusive, in which the disabled worker attains the age of 62, under a formula designed to limit the combined monthly total payment of the Social Security and the State Insurance Fund benefits and other disability benefits received from other agencies or from commonwealth organizations up to 80% of the average present income of the worker.

"Due to these adjustments, the workers and employees are going through serious economic problems in times when they are in the most want.

"It is necessary to solve this situation to promote a philosophy of remedial nature so that these workers and employees who have suffered a disability may receive the greater protection and medical care to alleviate in that way the problems endured by their families on account of their condition.

"Considering this problem of federal legislation we think advisable to request from the Congress of the United States adequate legislation in behalf of our working classes.

"Be it resolved by the Senate of Puerto Rico:

"SECTION 1. To request, as it does request, from the Congress of the United States to amend the Federal Social Security Act for the purposes of eliminating from section 224 of Title II that part which provides for the adjustment and offset procedure.

SEC. 2. Certified copy of this Resolution shall be sent to the Senate and the House of Representatives of the United States of America; to the Governor of Puerto Rico and to the Resident Commissioner of Puerto Rico in the Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ELLENDER, from the Committee on Appropriations, without amendment:

S. Res. 229. Resolution to provide additional funds for the Committee on Appropriations; referred to the Committee on Rules and Administration.

By Mr. BYRD of Virginia, from the Committee on Armed Services, with an amendment:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes (Rept. No. 92-644).

By Mr. MOSS (for Mr. JACKSON), from the Committee on Interior and Insular Affairs, with amendments:

H.R. 1682. An act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station, Lemoore, California, included in said district, and for other purposes (Rept. No. 92-645).

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

S. 3244. An original bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition (Rept. No. 92-646).

EXECUTIVE REPORTS OF COMMITTEES

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 85 flag and general officers in the Army, Navy, Marine Corps, and Air Force. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Maj. Gen. Felix M. Rogers (brigadier general, Regular Air Force) U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force;

Maj. Gen. Howard Wilson Penney, U.S. Army, to be assigned to a position of importance and responsibility, to be lieutenant general;

Brig. Gen. William David Tigertt, Army of the United States (colonel, U.S. Army), for reappointment in the active list of the Regular Army of the United States;

Vice Adm. Benedict J. Semmes, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired;

Gen. Raymond G. Davis, U.S. Marine Corps, to be placed on the retired list, in the grade of general; and

Lt. Gen. Earl E. Anderson, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps.

Mr. STENNIS. Mr. President, in addition I report favorably 594 permanent appointments in the Marine Corps in grade of second lieutenant and below; and 206 permanent appointments in the Air Force Reserve in grade of colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Lester D. Abston, and sundry other officers, for promotion in the Air Force Reserve;

Arthur A. Adkins, and sundry other Naval Reserve Officers' Training Corps graduates, for permanent appointment in the Marine Corps;

Leo L. Accursi, and sundry other U.S. Naval Academy graduates, for permanent appointment in the Marine Corps;

Stanley F. Dvoskin, and sundry other Navy enlisted scientific education program graduates, for permanent appointment in the Marine Corps; and

Robert M. Black, and sundry other officers, for promotion in the Marine Corps.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PEARSON:

S. 3238. A bill to strengthen certain penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3239. A bill to amend the Interstate Commerce Act and related statutes, and for other purposes. Referred to the Committee on Commerce.

S. 3240. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges; and

S. 3241. A bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard. Referred to the Committee on Commerce.

By Mr. BAKER (for himself and Mr. BROCK):

S. 3242. A bill to name the bridge being constructed across the Mississippi River linking the States of Tennessee and Arkansas in honor of Hernando DeSoto. Referred to the Committee on Public Works.

By Mr. STAFFORD:

S. 3243. A bill to amend the Railway Labor Act to provide more effective means for protecting the public interest in national emergency disputes involving the railroad and airline transportation industries, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. SYMINGTON, from the Committee on Armed Services:

S. 3244. An original bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition. Ordered to be placed on the calendar.

By Mr. BYRD of West Virginia:

S.J. Res. 208. A joint resolution authorizing the President to proclaim the first Sunday in June of each year as "National Shut-In Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON:

S. 3238. A bill to strengthen certain penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. PEARSON: Mr. President, when a person takes up a gun in this Nation, he has only three uses for it: sport, self-protection, or crime. The first two uses are sanctioned by law and custom, and with those we have no quarrel. If however, a person carries a firearm with him as he commits a crime, he carries a threat to life itself.

In our Nation last year, 120 police officers were killed by such criminal use of firearms, 27 more than the year before. In 1970, over 10,000 people were murdered in this Nation with hand and long guns.

Our society cannot tolerate this criminal behavior. We must provide effective deterrents in the law to discourage the illegal use of firearms. We must let any potential criminal know that he risks certain imprisonment if he carries a gun.

The bill I introduce today provides more effective deterrents than we now have in the law. While it cannot, because of our federal system, cover violations of State laws, it does prescribe penalties for persons carrying a firearm during the commission of a felony for which he may be prosecuted in a court of the United States.

Mr. President, this bill makes two important changes in the current statutes. It imposes a mandatory minimum sentence of not less than 1 nor more than 10 years for a first conviction. Passage of this bill would, then, put each potential felon on notice that he would be imprisoned simply because he carried a firearm with no chance for a suspended sentence, a concurrent sentence, or probation.

This bill strikes hardest at the individual who is more than once convicted of violating this firearm act. For that person who has twice jeopardized human life, the bill provides a minimum 5-year sentence from which there may be no probation or suspension. This sentence would be in addition to any other penalties prescribed for the felony in which the firearm was used and could not be served concurrently with them.

Mr. President, this bill has a carefully defined target. It is aimed at persons who would risk the lives of innocent citizens by carrying a firearm not for sport or for legally sanctioned self-protection but to steal, assault and possibly kill. Increasing penalties for the illegal use of firearms may not deter all potential criminals from carrying a gun, but if it deters only a few, if it saves only one life, its passage will make this country a little safer for us all.

By Mr. MAGNUSON (by request):

S. 3239. A bill to amend the Interstate Commerce Act and related statutes, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, at the request of the Interstate Commerce Commission, I introduce a bill to amend various provisions of the Interstate Commerce Act and related statutes.

In introducing this measure, I feel that I must make particularly clear my concern with section 3 which would empower the Commission to impose penalty or emergency charges upon a railroad's use of another railroad's freight cars whenever an emergency shortage of such equipment exists or is threatened.

I have repeatedly stated in public hearings that I believe the Commission to possess power under existing law to impose penalty charges. Indeed, I was privately assured by the chairman and the member of the Commission responsible for freight car matters that the Commission had such power and would use it when the appropriate occasion arose.

Until it is clearly demonstrated that the Commission does not have such authority, I am reluctant to engage the Senate in a wasteful exercise to provide the ICC with what may be unnecessary and redundant authority.

Furthermore, the Commerce Committee presently has under consideration—and has devoted substantial effort—to a very different legislative approach to solution of the freight car shortage problem. This approach, embodied in S. 1729, offers a more effective way of assuring that our Nation's shippers have needed freight cars and adequate service than does the penalty or emergency charge approach. Even assuming that the ICC needs additional per diem authority, un-

til a decision is reached upon that measure, it would be premature to begin action on the penalty charge provision of the Commission's bill. In any event, I am convinced that S. 1729 is likely to have much broader support and do a much more effective job than another per diem bill. Parenthetically, I would add that the last time the Congress approved an ICC recommended change in per diem it took 4 years to implement the act and the benefits that the Commission said would come to pass have yet to occur.

I ask unanimous consent that the explanation provided by the Commission and the text of the bill be printed in the RECORD at this point.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 3239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interstate Commerce Act Amendments of 1971."

SEC. 2. Section 1(1)(b) of the Interstate Commerce Act (49 U.S.C. 1(1)(b)) is amended to read as follows:

"(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly oy railroad or by water—from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country or from or to any place in a foreign country, but only insofar as such transportation takes place within the United States."

SEC. 3. Section 1(15) of the Interstate Commerce Act (49 U.S.C. (1)(15)) is amended by striking "(c)" and "(d)" and inserting in lieu thereof "(d)" and "(e)", respectively, and by inserting a new clause "(c)" to read as follows:

"(c) to impose on one or more carriers, when a shortage or threatened shortage of freight cars exists, such charges (in addition to the car-hire, car-rental, or per diem charges, or mileage rates, then in effect) applicable to any type of freight car in any section of the country during such emergency, or threatened emergency, as in the opinion of the Commission are reasonably calculated to relieve such shortage or threatened shortage by encouraging adequate ownership of freight cars by each carrier and by prompting the expeditious movement, distribution, interchange, or return of freight cars, and the additional charges shall be paid by the carrier using such cars to the owners;"

SEC. 4. Section 1 of the Interstate Commerce Act (49 U.S.C. 1) is amended by adding at the end thereof the following new paragraphs:

"(23)(a) Upon application and a showing of an immediate and urgent need for service to a point or points, or within a territory having limited or restricted rail carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a rail carrier. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of one hundred and eighty days. Extension of such temporary authority beyond one hundred and eighty days may be determined by the Commission upon written request by any interested party or it may determine the need therefor upon its own initiative. No temporary approval granted under this subsection shall carry any presumption that corresponding permanent authority will be granted thereafter.

"(b) Pending the determination of an application filed with the Commission for approval of an acquisition or operation of a line of railroad, or any extension thereof, under section 1(18), or a transaction within the scope of section 5(2), the Commission may in its discretion, and without hearing or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of the operation of the railroad properties sought to be acquired by the person proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such railroad properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public, or to leave a point or points or a territory having limited or restricted railroad service available with an immediate and urgent need for the operation of the railroad properties sought to be acquired. The Commission may, in its discretion, attach to any order granting such temporary approval such terms and conditions as in its judgment the circumstances surrounding such temporary approval shall warrant. Extension of such temporary authority beyond one hundred and eighty days may be determined by the Commission upon written request by any interested party, or it may determine the need therefor upon its own initiative.

No temporary approval granted under this subsection shall carry any presumption that corresponding permanent authority will be granted thereafter."

SEC. 5. Section (4) of the Interstate Commerce Act (9 U.S.C. (1)) is amended by inserting in the first proviso the phrase "or, if the Commission deems it to be necessary, without such investigation" after the word "investigation".

SEC. 6. Subsection 1 of section 10 of the Interstate Commerce Act (49 U.S.C. 10(1)) is amended by deleting the words "to exceed" in the last clause before the proviso in that section, and by inserting in lieu thereof "less than five hundred dollars nor more than"; and subsections (2), (3), and (4) are amended by deleting from each respectively the words "exceeding five thousand dollars" and by inserting in lieu thereof "less than five hundred dollars nor more than five thousand dollars".

SEC. 7. Section 12 of the Interstate Commerce Act (49 U.S.C. 12(1)) is amended by adding a subparagraph "(a)" thereto to read as follows:

"12(1)(a) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall be order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 8. Subsections (9) and (10) of section 16 of the Interstate Commerce Act (49 U.S.C. (9) and (10)) are amended to read as follows:

"(9) Any person whether carrier, broker, shipper, or consignee, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of the Interstate Commerce Act other than any provision of the Act pursuant to which a different specific forfeiture is otherwise prescribed, or to comply with any rule, order, or regulation prescribed under this Act shall forfeit to the United States not less than $1,000 nor more than $20,000 for each such offense. The forfeiture provided for shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where such violation occurred or where the carrier, broker, or lessor, or other person, or any officer, agent, employee, or representative thereof has its principal office, or in any district in which such party was, at the time of the offense operating or is authorized by this Commission, or by this Act, to engage in operation as such carrier, broker, or lessor, or other person; or in any district where such forfeiture may occur; or in the district court where the offender is found.

"(10) It shall be the duty of the various district attorneys under the direction of the Attorney General of the United States to prosecute for the recovery of such forfeitures. All process in any such case may be served in the judicial district whereof such offender is an inhabitant or wherever he may be found. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States."

SEC. 9. Section 17(2) of the Interstate Commerce Act (49 U.S.C. 17(2)) is amended by inserting immediately after the second sentence thereof the following:

"The Commission may also refer to individual qualified employees for decision those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board."

SEC. 10. Section 20a(2) of the Interstate Commerce Act (49 U.S.C. 20a(2)) is amended by adding at the end thereof a proviso to read as follows:

"And provided further, That said provisions shall not apply to such carriers or corporations where the value of capital stock or principal amount of other securities to be issued, together with the value of capital stock and principal amount of other securities then outstanding, does not exceed $1,000,000, nor to the issuances of notes of a maturity of two years or less and aggregating not more than $200,000, which notes aggregating such amount including all outstanding obligations maturing in two years or less may be issued without reference to the percentage which said amounts bear to the total amount of outstanding securities. In the case of capital stock having no par value, the value thereof for the purpose of this section shall be the fair market value as of the

date of its issue; and in the case of capital stock having par value, the value for the purpose of this section shall be the fair market value as of the date of its issue, or the par value, whichever is the greater."

SEC. 11. The first sentence of section 20a (12) of the Interstate Commerce Act (49 U.S.C. 20a(12)) is amended to read as follows:

"(12) After ninety days from the date of enactment hereof, it shall be unlawful for any person to hold a position of officer or director of more than one carrier except carriers which are lawfully operated under common control or management, or for any director, officer, or partner of any firm, corporation, or partnership to hold the position of officer or director of any such carrier when any other director, officer, or partner of such firm, corporation, or partnership holds the position of officer or director of another such carrier except where the carriers are lawfully operated under common control or management, unless such holdings have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby."

SEC. 12. Section 204(a)(6) of the Interstate Commerce Act (49 U.S.C. 304a(6)) is amended by adding subparagraph "(1)" to read as follows:

"204(a)(6)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, is whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 13. Section 212(a) of the Interstate Commerce Act (49 U.S.C. 312(a)) is amended as follows:

"(1) The second sentence is amended by inserting after the phrase "promulgated thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

"(2) The first proviso is amended by inserting immediately after the phrase "or to the rule or regulation thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

"(3) The second proviso is amended by inserting "215", immediately after "211(c)".

SEC. 14. Section 216(g) of the Interstate Commerce Act (49 U.S.C. 316(g)) is amended by deleting the proviso therein and by inserting in lieu thereof a new proviso to read as follows:

"Provided, That in the case of a proposed increase rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate accounts in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearings and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified."

SEC. 15. Section 303 of the Interstate Commerce Act (49 U.S.C. § 903) is amended by adding a new paragraph, as follows:

"(m) Nothing in this part shall apply to the transportation by water undertaken pursuant to the authorization, regulation, and control of the Secretary of the Interior principally for the purpose of transporting persons in and about the national parks and national monuments."

SEC. 16. Section 304(a) of the Interstate Commerce Act (49 U.S.C. 904(a)) is amended by adding subparagraph "(1)" thereto to read as follows:

"304(a)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to achieve effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 17. Section 403(a) of the Interstate Commerce Act (49 U.S.C. 1003(a)) is amended by adding a subparagraph "(1)" thereto to read as follows:

"403(a)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 18. Section 421(a) of the Interstate Commerce Act (49 U.S.C. 1021(a)) is amended to read as follows:

"(a) Any person who knowingly and willfully violates any provision of this Part, or any rule, regulation, requirement, or order thereunder, or any term or condition of any permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $500 for any subsequent offense. Each day of such violation shall constitute a separate offense."

SEC. 19. Section 660 of the Criminal Code (18 U.S.C. 660) is amended to read as follows:

"Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common or contract carrier, person controlling, controlled by, or under common control with such carrier, or whoever being an employee of such common or contract carrier riding in or upon any railroad car, motor-truck, steamboat, vessel, aircraft, or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, properties, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, properties or assets.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts."

SEC. 20. Section 1114 of the Criminal Code (18 U.S.C. 1114) is amended by inserting after the phrase "Federal Food, Drug, and Cosmetic Act" and before the phrase "while engaged in the performance of his official duties," the phrase "any officer or employee of the Interstate Commerce Commission".

INTRODUCTION TO JUSTIFICATIONS

This Commission is charged with the duty of being the economic regulator of the Nation's surface transportation industry. We are concerned about the condition of that industry; this concern has been expressed publicly and we have suggested ways in which to combat some of the serious problems facing the interstate surface transportation systems. Last June we testified before the Special Subcommittee on Freight Car Shortages on freight car supply and utilization problems. At that time, we set forth our position on legislation proposed to alleviate those problems. Later in the summer, in the course of hearings before the Senate Subcommittee on Surface Transportation, we proposed specific amendments to the Interstate Commerce Act. These proposals, which were sent to Congress, cover matters such as conglomerates, guaranteed loans, restructuring of essential rail service, government rates, and through routes and joint rates. At that time, we stated that additional proposals dealing with amendment to various sections of the Interstate Commerce Act would be forwarded to Congress in the near future. For the sake of convenience, these amendments are incorporated into a solitary proposal; however, encompassed therein are amendments to various parts of the Act. It is our belief that each of these changes is required in order for us to properly carry out our statutory mandate; however, enactment of some of the proposals is more urgent than others. Following are justifications for all sections of the proposal in their respective order of priority. Attached is a guide indicating which section of the proposed bill corresponds to the pertinent section of the Interstate Commerce Act being amended.

A–1

We recommend that sections 12(1), 204(a)(6), 304(a), and 403(a) of the Interstate Commerce Act be amended so as to enable the Commission to exempt certain transportation from regulation.

We thoroughly disapprove of regulation for the sake of regulation and believe that the railroads, truckers, and other carriers under our jurisdiction should be subject to the

restraints of the Interstate Commerce Act only to the extent that such regulation serves a useful public purpose. However, under the statute's present provisions we have no means of relieving certain services or transportation from the Act's requirements, with the result that we must exact compliance with the franchise, rate, and other regulations of carriers handling traffic that do not occasion such supervision. For example, the interstate motor movement of such commodities as homing pigeons would appear to be of such nature, character, or quantity as not substantially to affect or impair uniform regulation, and exemption of such transportation from regulation would in no wise hinder the effectuation of the national transportation policy or affect materially the welfare of regulated transportation. Likewise, the exclusion from interstate regulation of local mass transit motorbus operations conducted within precisely defined territorial limits would in certain circumstances appear to have little or no effect upon uniform regulation of that segment for the for-hire industry.

While individual and specific legislative recommendations could be submitted from time to time with respect to each commodity or transportation service found by this Commission to be susceptible of statutory exemption, enactment of the proposed general exempting power is believed to be in the best interests of all concerned. Not only would such authority relieve the Commission and the affected carriers of what seems to be an undue regulatory burden, but also would tend to free the Congress of much of the legislative workload that would be encountered by a piece-meal approach. As an example, such authority probably would have eliminated the need for the recently enacted law partially exempting from regulation the emergency transportation of accidentally wrecked or disabled motor vehicles. Additionally, the recommended authority would result in increased flexibility, since any exemption created thereunder would be subject to continuous administrative review and to repeal or modification upon a finding of changed circumstances. Accordingly, we propose that sections 12(1), 204(a)(6), 304(a), and 403(a) of the Act be amended so as to enable us, after notice and opportunity for hearing, to establish exemption from its requirements.

We recommend that section 20a of the Interstate Commerce Act be amended so as to provide other carriers subject to our jurisdiction with the same exemptions in offering small notes or other securities issues as now is applicable to motor carriers pursuant to section 214 of the act.

We believe that railroads and other carriers should be relieved of the formalities of securing Commission authorization when offering small notes or other securities issues. The motor carriers long have had the benefit of such an exemption from the normal requirements pertaining to securities issues, and we see no reason why the exemption should not be enlarged. Accordingly, we propose that the Act be amended to extend the exemption now found in section 214, applicable to motor carriers, to rail carriers by inserting it as a provision to section 20a of the Act.

A railroad presently is not allowed any exemption in the issuance of securities except that provided in section 20a(9) in respect of short term notes, and that exempts short term notes only to the extent of 5 percent of the carrier's outstanding securities, excluding short term notes. *See New York, N.H. & H.R. Co. Notes,* 207 I.C.C. 560. Thus a railroad with $1,000,000 of outstanding securities may issue not more than a total of $50,000 of short term notes under this exemption, whereas a motor carrier, under the same circumstances, may issue $200,000 or short term notes or, if it has a large amount of securities outstanding, it may issue not exceeding 5 percent of short term notes under the section 20a(9) exemption, whichever is the greater.

A2(b)

We recommend that Part III of the Interstate Commerce Act be amended by adding a new section 303(m) which would exempt transportation authorized by the Secretary of the Interior in and about national parks and monuments from certification or economic regulation.

The need for such legislation was emphasized by a recent situation called to our attention by Senator Goldwater. Canyon Tours, Inc., has operated sightseeing boats on the Colorado River from Lee's Ferry in Arizona for more than 25 years. Since the construction of Glen Canyon Dam and the formation of Lake Powell, it has operated on Lake Powell from Wahweap, Ariz., to all points on Lake Powell, both in Utah and Arizona, and then returning them to Wahweap. Operations on Lake Powell, which is located within a national park, are subject to the jurisdiction of the Department of Interior National Park Service. The Department of Interior awards the franchises and supervises the rates applicable to such operations. It administers all commercial and recreational activities on Lake Powell and in granting a concession to Canyon Tours, Inc., it has charged the carrier with the responsibility of meeting the public demand for water tours on the Lake. In addition to being subject to the jurisdiction of the Department of Interior, Canyon Tours, Inc., is also subject to the jurisdiction of this Commission under Section 302(i)(1) of the Act, for it operates as a common carrier by water between points in Utah and Arizona. The fact that no passengers are discharged across State lines does not relieve this Commission of the duty of exercising such jurisdiction. The Act now contains no provision which would permit this Commission to refrain from exercising jurisdiction in this situation.

We believe that a new section 303(m) should be added to make inapplicable the provisions of part III to transportation authorized by the Secretary of the Interior of persons in and about the national parks and national monuments. There is no reason why this kind of transportation should be subject to either certification or economic regulation.

We recommend that section 1(15) of the Interstate Commerce Act be amended so as to permit the imposition of a penalty charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened.

We believe that we should be given the authority under our emergency powers in section 1(15) of the Act to impose a penalty or emergency charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened. This would enlarge our statutory base of emergency powers. The charge could be applicable to any type of freight car in any section of the country during an emergency or threatened emergency, if the charge is calculated to relieve such shortage or threatened shortage by promoting the expeditious movement, distribution, interchange or return of freight cars. The additional charge would be paid to the owners; failure to make such payments would subject the debtor carrier subject to the penalty provisions of section 1(17) of the Act. Increased car utilization and ownership are of prime importance at this time; hence, we believe that this additional statutory tool is needed to meet this end. This proposal is very similar to section 4 of S. 3223 introduced into the 91st Congress by Senator Magnuson on December 9, 1969, and is aimed at helping to solve the Nation's freight car problems by making more cars available through enforced better utilization.

The proposal would give a clear statutory basis to our authority to impose a penalty per diem charge during times of emergency or threatened emergencies. This could be imposed upon carriers for substandard utilization or misuse of equipment. Presently there is legislation pending before the Congress concerning railroad freight cars and other equipment. Granting the Commission the authority sought herein would provide us with an additional tool to alleviate the overall problem. The authority herein would be utilized in a similar manner as car service orders and would let the Commission act in a preventive manner.

C

We recommend that section 212(a) of the Interstate Commerce Act be amended: (1) to make motor carrier operating authorities subject to suspension, change, or revocation for willful failure to comply with any provision of Chapter 39, title 18, United States Code, Explosives and Other Dangerous Articles; and (2) to provide that the Commission may, upon reasonable notice, suspend motor carrier operating authorities for failure to comply with insurance regulations issued by it pursuant to section 215 thereof.

Section 6(e)(4) of the Department of Transportation Act transferred the Commission's authority relating to explosives and other dangerous articles to the Department of Transportation. Nevertheless, we should have the authority to suspend and revoke certificates for serious violations of such Act. Consequently, section 212(a) should be amended to give the Commission this authority.

The second proviso in section 212(a) provides for the suspension, upon notice, but without hearing, of motor carriers' and brokers' operating authorities for failure to comply with brokerage bond regulations and tariff publishing rules. It does not provide for suspension on short notice for failure to maintain proof of cargo, public-liability, and property-damage insurance under section 215. As a result, the only remedy presently available under section 212(a) is revocation of the carriers' authority. All insurance filings made with the Commission are on a "continuous until cancelled" basis with a minimum thirty-day cancellation provision. The motor carrier is immediately notified of an insurance cancellation and has ample time to make new arrangements. If replacement insurance is not received by the cancellation date, we now must commence lengthy and time-consuming show cause proceedings to obtain compliance or to revoke the operating authority. Approximately 400 such proceedings are commenced annually. The public may be adversely affected should losses occur during these proceedings. Section 410(f) is a counterpart of section 212(a) and contains a provision similar to the second proviso of section 212(a). The second proviso in section 410(f), however, provides for suspension on short notice of freight forwarder permits for failure to comply with the cargo insurance provisions under section 403(c) and the public-liability and property-damage insurance provisions under section 403(d). Our recommendation would bring section 212(a) into further conformity with section 410(f) by removing this distinction.

There is as much reason to require motor carriers to keep their cargo and public-liability and property-damage insurance in force as there is to require freight forwarders to keep their insurance in effect. It is therefore desirable in the public interest that the Commission have the authority to suspend motor carrier rights, on short notice, when insurance lapses, or is cancelled without replacement, until compliance is effected. The prospect of such action by the Commission should act as a deterrent to violations of this nature. An investigation under section 204(c) is not satisfactory since such proceedings can be lengthy and the public may be adversely

affected should losses occur while it is pending.

The amendments to section 212(a) would enable the Commission to administer the enforcement provisions of Part II of the Act more effectively.

D-1

We recommend that a new section 1(23)(b) be enacted so as to empower the Commission to temporarily authorize the acquisition of one railroad by another pending a final determination of an underlying permanent application.

Section 210(b) of the Act empowers the Commission to grant temporary authority to the consolidation or merger of the properties of two or more motor carriers, or of a purchase, lease, or contract to operate the properties of one or more motor carriers, if it should appear that failure to grant such temporary authority may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public pending disposition of the application for permanent authority. The Act does not grant the Commission similar authority with respect to railroad carriers, and we propose that the Act be amended to provide for such temporary authority in railroad proceedings.

Applications for permanent authority to consolidate or merge the properties of two or more railroads, or for the purchase, lease, or contract to operate the properties of one or more railroads generally involve prolonged proceedings while applicants and protestants present and develop their cases. A period of several years is not unusual particularly where the parties appeal the results through the various courts as frequently occurs. In the meantime, a railroad applicant often continues to deteriorate financially, its maintenance is neglected, and its service to the public impaired. We propose that the Commission be granted the discretionary authority to grant temporary authority in appropriate cases pending disposition of the application for permanent authority. Such authority would particularly be helpful in proceedings where financially viable railroads seek to acquire through merger, control or purchase, the properties of financially troubled railroads. This would help avoid deterioration resulting from delay in processing applications and would equalize the treatment of motor and rail carriers.

We recommend that a new section 1(23)(a) be enacted so as to empower the Commission to grant temporary operating authority to railroads, pending the Commission's determination of corresponding application for permanent operating authority.

Under the Interstate Commerce Act, as presently worded, the Commission cannot authorize temporary railroad operations. Section 210(a) of the Act empowers the Commission to grant temporary authority to motor carriers to operate where there is an immediate and urgent need, pending disposition of an application for permanent authority. Similar authority with respect to railroad operations is highly desirable since applications for permanent authority frequently require a long period of time to be processed, and in the meantime there is a danger that the public could be denied essential railroad service. Such temporary authority is particularly needed with respect to railroads in reorganization. The United States District Courts in several railroad reorganization proceedings have indicated from time to time that they would dismiss the reorganization proceeding before the Court and liquidate the debtor railroad in the event such railroad ran out of cash to operate. If such a point were reached it would be highly important that the Commission be able to grant temporary authority to other railroads to operate essential rail service of the debtor railroad, so as to avoid the lapse of service pending disposition of an application for permanent authority. Such authority was urgently needed in the past when the New York, Ontario and Western Railroad Company and the Tennessee Central Railroad ceased operations due to lack of funds.

E

We recommend that section 216(g) of the Interstate Commerce Act be amended so as to provide this Commission with statutory authority to impose refund provisions in proceedings involving proposed increases in rates or charges of motor carriers.

Part I of the act, section 15(7), contains the authority for the Commission to investigate a proposed rate, charge, and so forth. Ancillary to this authority are the further provisions of that section permitting the Commission to suspend the operation of the proposal for a period not to exceed seven months. If the investigation has not been concluded within the suspension period, section 15(7) requires that the proposed rate, charge, etc., be allowed to go into effect. However, where an increase in a rate or charge for the transportation of property becomes effective in the course of an investigation, section 15(7) empowers the Commission to require by order that the carriers keep an accurate account of all amounts received by virtue of the increase. Upon the conclusion of the investigation, the Commission may then order the carrier, to the extent the proposed rate or charge is found not justified, to make refunds with interest to the persons in whose behalf such amounts were paid.

Section 216(g) of Part II is the analog to section 15(7). However, section 216(g) does not contain the accounting and refund provisions as an adjunct to the investigation and suspension authority. As their costs continue to escalate, motor carriers are filing petitions for increases in rates more frequently. Certainly, after more than 35 years of regulation, the motor carriers should no longer be sheltered from such provisions. The authority sought, it should be noted, would only disturb the status quo to the extent that the increases are later found to be unwarranted. In these circumstances, we believe that shippers moving their property by motor carrier should be afforded at least as much protection as shippers by railroad.

The proposed amendment to section 216(g) is identical to the provisions currently in section 15(7).

F

We recommend that section 4 of the Interstate Commerce Act be amended so as to give the Commission discretion to allow long- and short-haul departures when investigation is unnecessary.

Fourth Section relief can be granted under the present statute only after investigation with the implicit requirement for notice and hearing. The proposed amendment would give the Commission statutory discretion to allow long- and short-haul departures when investigation is unnecessary, thus affording flexibility in railroad rate adjustments.

G

We recommend that section 1114 of Chapter 51, title 18, of the United States Code be amended so as to include officers and employees of the Interstate Commerce Commission.

Employees of the Bureau of Enforcement and of the Bureau of Operations have been subjected to abuse, threat, and possible injury while in the performance of their official duties. Section 1114 of the Criminal Code is designed to protect officers and employees of the United States while those persons are performing their official duties. The statute is specific in that it applies only to those officers of the agencies so designated. We believe that officers and employees of the Interstate Commerce Commission should be afforded the protection offered under this section.

A

(Priority Group "B")

We recommend that section 17(2) be amended as to authorize the Commission to delegate to qualified individual employees, including transportation economists and specialists, those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

In addition to a voluminous number of formal cases, we are responsible under the Act for numerous matters of relatively routine and specialized nature. For example, matters relating to extensions of time for filing annual, periodical, or special reports; rejection of tariff publications for failure to give lawful notice or failure to comply with our regulations; and orders assigning cases for hearing, extending dates for the filing of pleadings and postponing compliance dates. Except with respect to assignments to a Division or an individual Commissioner, we may now under section 17(2) delegate such functions only to three-man boards.

When applied to matters of the type described above, the mandatory requirements of section 17(2) are unnecessary and unduly limit our authority in what essentially is an administrative area.

The proposed recommendation has been narrowly drawn so as to affect only the processing of matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. This would authorize us to refer such matters to individual employees who in our judgment would be qualified to receive such delegations. In addition to directors and assistant directors of bureaus, examiners, chiefs of sections, and attorneys who are now eligible under existing law to serve on employee boards and could also receive individual delegations, such personnel as accountants, economists, and other transportation specialists as we might designate could receive individual delegations to handle the limited range of matters covered by this recommendation. The amendment makes it clear that the right of any party to appeal a decision of an individual employee to the Commission or an appellate division thereof is specifically preserved in the same manner as appeals from decisions of employee boards under existing law.

Enactment of the proposed amendment to section 17(2) would enable us to utilize key employees more effectively and would contribute significantly to improved overall administrative efficiency.

B

We recommend that section 20a(12) of the Interstate Commerce Act be amended so as to make unnecessary our approval of interlocking directorates between affiliated carriers, and at the same time, clarify that Commission approval must be obtained for interlocking directorates accomplished through different individuals representing a business entity.

We fully subscribe to the idea, now embodied in the Interstate Commerce Act, that we be apprised of and approve in advance interlocking directorates between carriers subject to our jurisdiction. However, where we heretofore have authorized the one carrier to acquire control of the other, there seems to be little or no reason why we should receive and act on applications approving the election of interlocking directorates between such affiliated carriers. We propose that section 20a(12) be amended so as to make our approval unnecessary in such circumstances. At the same time we suggest that the law be

amended to make clear that our approval must be obtained for interlocking directorates accomplished through different individuals representing a single firm, partnership, or corporation.

C–1

We recommend that section 660 of the Criminal Code (18 U.S.C. § 660) should be amended so as to make it applicable to contract carriers engaged in interstate commerce.

We believe the provisions of section 660 of the Criminal Code should be made applicable not only to common carriers but to contract carriers, persons controlled by, controlling, or under common control with such carriers when such carriers have had their moneys, funds, credits, securities, properties, or assets embezzled, stolen, or willfully applied by officers or employees of such carriers engaged in interstate commerce. This section is presently applicable only to common carriers.

C–2

We recommend that section 16(9) and (10) of the Interstate Commerce Act be amended so as to provide civil penalties whenever there is a failure to comply with any rules, order, or regulation of this Commission not now covered.

Revision of sections 16(9) and (10) is necessary to provide an effective forfeiture section for enforcement of an increased number of types of violations for which there would be an alternative civil remedy to presently existing criminal remedies. This would facilitate use of the Federal Claims Collection Act of 1966 and further the objective of that act by relieving the courts of relatively less important matters that are within predictable settlement ranges. Minimum fines would be set at $1,000 and maximum fines at $20,000 providing realistic figures for the very large rail carriers.

Courts have been reluctant to impose criminal penalties for some offenses. These amendments would impose civil sanctions whenever there is failure to comply with any rule, order or regulation of the Commission not now covered. For example, section 6(7) which is in pari materia with the criminal provisions of the Elkins Act can only be enforced under the penal provisions of section 10(1). Many enforcement cases brought under the criminal provisions of the Elkins Act for granting rebates, concessions, advantages, and discriminations would equally be subject to enforcement in connection with section 6(7) if there were an effective civil forfeiture provision which could be exercised against rail carriers. Shippers now are subject to a treble civil forfeiture provision under the Elkins Act while carriers are not. Increased civil forfeitures would permit the Commission to apply an expeditious, cost-saving enforcement tool under Part I with respect to all orders and regulations where no civil remedy presently exists.

C–3

We recommend that section 10(1) (2) (3) and (4) of the Interstate Commerce Act be amended so as to provide for minimum fines for violations under Part I of the Act.

The present section 10(1) fails to provide that its penal sanctions shall be applicable to violations of rules, regulations, requirements, and orders of the Commission under Part I as is true under sections 222(a), 317(a), and 417(a). Rather, these sanctions apply only to violations of the statutory provisions themselves, due no doubt to the fact that many provisions of Part I contain their own penalties. This results in enforcement loopholes. For example, there is no direct penal sanction for violation of a Section 5 order or for orders issued under other sections of Part I.

The penalty provisions of these sections have not been made use of in recent times because of the absence of a minimum amount specified therein. Instead, recourse has been had in most situations to the provisions of the Elkins Act or to other penalty provisions such as contained in section 16(8) of the Interstate Commerce Act, both, however, contain extremely heavy mandatory penalty provisions and, thus, are not as well designed as could be in dealing with less serious violations. For example, failure to observe the Commission's credit regulations by a rail carrier may result in evidence of literally hundreds of thousands of dollars of such violations. In some instances, the enforcement action has been taken under section 16(8) of the Act which calls for a mandatory penalty of $5,000 for each offense. This sum would seem to be totally out of proportion to the type of violation involved and a lower penalty under a different section would represent a helpful enforcement procedure. Most of the provisions found in other sections of Part I prescribing penalties specify minimum amounts, such as section 1(17)(a) and comparable provisions of penalty sections of Parts II, III, and IV of the Act also prescribe more penalties. Hence, it would seem to be in the public interest to make these sections uniform to penalty provisions in other parts of the Act.

C–4

We recommend that section 421(a) of the Interstate Commerce Act be amended so as to provide a minimum fine for first offenses by freight forwarders.

The present maximum penalty of $100 for a first offense by a freight forwarder, as provided in section 421(a), makes it difficult for the Government to prosecute first offenders, since the cost of prosecution will be substantially more than it can hope to derive from the imposition of a penalty.

The present maximum penalty has been in existence since 1942 and is not a sufficient deterrent to restrain violations by freight forwarders. The increased minimum and maximum fines of $100 and $500 for the first offense and $200 and $500 for any subsequent offenses are identical to those fines presently assessed against motor carriers under section 222(a). Addition of the minimum fine to the statute will make it economically feasible to prosecute violations by freight forwarders.

D

We recommend that section 1(1) of the Interstate Commerce Act be amended to provide the Commission with jurisdiction over transportation in the United States when the movement is between two foreign countries through the United States.

At the present time it is possible for railroads to discriminate against domestic shippers by according unwarranted rate concessions to shippers between points in foreign countries, for we have no jurisdiction over such transportation, even to the extent that it is performed within the United States. This regulatory gap has not loomed large heretofore, when the only rail movements between points in foreign countries have been between Mexico and Canada. Now, however, the development of containerized traffic and the concept of land-bridge transportation between European and Asian points gives this matter some importance. We suggest that section 1(1) of the Act be amended to complete our regulatory jurisdiction over railroad transportation within the United States.

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INTERSTATE COMMERCE ACT AMENDMENTS OF 1971 PRIORITY GROUPS "A" AND "B" [1]

Priority Group "A"

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b. Water carrier operations in national parks.

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Interstate Commerce Act key to draft bill

A. Exemptions authority:

1. General exemption authority.

Act, sec. 12(1); proposed bill, sec. 7.
Act, sec. 204(a)(6); proposed bill, sec. 12.
Act, sec. 304(a); proposed bill, sec. 16.
Act, sec. 403(a); proposed bill, sec. 17.

2. If general exemption authority is not granted, the following two specific items should be considered.

a. Exemption for issuance of short term notes:

Act, sec. 20(a); proposed bill, sec. 10.

b. Water carrier operations in national parks:

Act, sec. 303(m); proposed bill, sec. 15

B. Penalty charge for use of foreign rail cars during period of emergency shortage:

[1] In addition to the proposals previously submitted to the 92nd Congress by the Interstate Commerce Commission, this Bill constitutes the remainder of the legislative recommendations by the Commission to the First Session of the 92nd Congress. To avoid confusion the composite Bill amends the Interstate Commerce Act chronologically, but for the convenience of the Committee we have listed the various recommendations in descending importance in the above outline.

Act, sec. 1(15); proposed bill, sec. 3.

C. Suspension and revocation of motor carrier operating authorities for non-compliance with regulations:

Act, sec. 212(a); proposed bill, sec. 13.

D. Temporary authority under Part I:

1. Merger and acquisition cases:

Act, sec. 1(23)(b); proposed bill, sec. 4.

2. Operating authority cases:

Act, sec. 1(23)(a); proposed bill, sec. 4.

E. Extension of refund provisions to motor carriers:

Act, sec. 216(g); proposed bill, sec. 14.

F. Fourth Section relief without hearings:

Act, sec. 4; proposed bill, sec. 5.

G. Protection for Commission employees:

Act, sec. Sec. 1114, Ch. 51, title 18, U.S.C.; proposed bill, sec. 50.

Priority Group "B"

A. Delegation of authority to individual employees:

Act, sec. 17(2); proposed bill, sec. 9.

B. Revision of provisions relating to interlocking directorates:

Act, sec. 20(a)(12); proposed bill, sec. 11.

C. Enforcement measures:

1. Extension of criminal penalties to employees of contract carriers:

Act, sec. (660 Criminal Code); proposed bill, sec. 19.

2. Extension of civil forfeiture provisions:

Act, secs. 16(9) and (10); proposed bill, sec. 8.

3. Extension of criminal sanctions to Part I rule violations; increase level of fines:

Act, secs. 10(1), (2), (3), & (4); proposed bill, sec. 6.

4. Increase fines under Part IV:

Act, sec. 421(a); proposed bill, sec. 18.

D. Rate regulation for foreign shipments (land bridge):

Act, sec. 1(1); proposed bill, sec. 2.

By Mr. MAGNUSON (by request):

S. 3240. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, is hereby further amended as follows:

(a) By inserting after the section designation the letter "(a)"; by changing the first sentence to read: "Subject to such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is reserved to the United States Government to deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder."; deleting the portion of the second sentence preceding the colon and substituting therefor the following: "The term 'overcharges' shall be deemed to mean charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and any state transportation regulatory agency, and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, as amended, or other equivalent contract, arrangement, or exemption from regulation".

(b) By adding the following new subsections to the section:

"(b) Pursuant to regulations prescribed by the head of a Government agency or his designee and in conformity with such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, bills for passenger or freight transportation services to be furnished the United States by any carrier or forwarder may be paid in advance of completion of the services, without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), *Provided,* that such carrier or forwarder has issued the usual ticket, receipt, bill of lading, or equivalent document covering the service involved, subject to later recovery by deduction or otherwise of any payments made for any services not received as ordered by the United States.

"(c) The term 'head of a Government agency' means any individual or group of individuals having final decision-making responsibility for any department, commission, board, service, Government corporation, instrumentality, or other establishment or body in the United States Government.

"(d) This act shall be known as the Transportation Payment Act of 1972."

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 7, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith, for referral to the appropriate Committee, a draft of legislation "To amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges."

The proposed legislation is an outgrowth of the Joint Agency Transportation Study Report (December 1969) on procuring, paying, auditing, and settling civil agency freight and passenger transportation services. The study was initiated in April 1968 as a result of numerous complaints received from the common carrier industry regarding delays and other problems the carriers were experiencing in receiving payments from civilian agencies for transportation services. It was conducted under the sponsorship of the Joint Financial Management Improvement Program, the leadership of which is provided by the Secretary of the Treasury, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Chairman of the Civil Service Commission.

The report proposes substantial changes in policies and procedures, many of which have been in existence over many years. The proposed changes will eliminate or alleviate problems both costly and cumbersome to the Government and the carriers. This will be accomplished by facilitating preparation or elimination of documentation, simplification of transportation procurement practices, reduction in number of lost Government bills of lading, improvement of administrative and financial flexibility, reduction of billing problems, and facilitation of the audit function. The report contains 58 recommendations for improving the conduct of the Government's transportation business in both the freight and passenger fields which, when fully implemented, will save an estimated $8.6 million annually.

GSA's Transportation and Communications Service has responded to the report by establishing a special projects division in its Office of Transportation to participate in the Government-wide implementation of the JATS program. However, of the 58 recommendations contained in the report, it is the opinion of GAO that three may not be implemented without changing existing law. These recommendations are as follows:

(a) That the General Services Adminstration's current system of computer printed Government bills of lading be further refined to show actual, rather than estimated, transportation charges, and that payment be made to the carriers on a periodic basis, without the necessity of carrier billing. This would reduce sharply the administrative costs of both the Government and the carrier.

(b) That the Consignee's Certificate of Delivery be eliminated from the Government Bill of Lading and a carrier's certificate of delivery be substituted therefor. Other more effective types of shipment controls, such as receiving reports and loss and damage reports, have rendered this consignee's certificate unnecessary.

(c) That Government agencies be authorized to pay at origin, from imprest funds for domestic freight, charges not exceeding $25 on commercial bills of lading, provided appropriate records of such transactions are maintained to permit audit by the General Accounting Office. This would reduce the workload for both the Government and the carriers, greatly reducing the costs of documentation, which are sometimes more than the cost of the transportation service.

Section 3648 of the Revised Statutes, which has governed transportation payment policies, practices, and procedures since 1823, prohibits the government from making payment in advance of the receipt of goods and services. In the case of transportation, this requires documentation procedures and accounting processes which are costly to the Government and burdensome to the carriers, inasmuch as they delay payments for inordinately long periods of time. The draft bill would amend section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, to provide for the payment of transportation charges without regard to section 3648 of the Revised Statutes, thus permitting the implementation of the three recommendations of the Joint Agency Transportation Study Report, to the benefit of the Federal Government and the carriers alike.

Abuse of the privilege would be precluded under the draft bill by joint regulations of the Secretary of the Treasury and the Comptroller General of the United States, which would insure that prepayment is not expected to become the rule, but is rather an exception, and by a provision that any overcharge by a carrier could be deducted from any amount subsequently due the carrier.

We urge prompt and favorable consideration of the draft bill.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

HAROLD S. TRIMMER, JR.,
Assistant Administrator.

By Mr. MAGNUSON (by request):

S. 3241. A bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and off-

shore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for fiscal year 1973 for the use of the Coast Guard as follows:

Vessels

For procurement and increasing capability of vessels, $81,070,000.

A. Procurement.

(1) replace one icebreaker.

B. Increasing capability

(1) renovate and improve selected buoy tenders.

(2) conduct major repairs on cutter (polar icebreaker) *Glacier.*

(3) renovate two *Wind* class polar icebreakers for interim service.

(4) abate pollution from vessels.

Aircraft

For procurement and extension of service life of aircraft, $11,600,000.

A. Procurement.

(1) two long range search aircraft.

B. Extension of service life.

(1) repair outer wings on nine HC–130 aircraft.

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including the preparation of sites and furnishing of appurtenances, utilities, and equipment for the following, $42,990,000.

(1) Marshfield and Otis Air Force Base, Massachusetts: modernize radio station facilities;

(2) Brooklyn, New York: construct barracks and messing facility at air station;

(3) Fort Hancock, New Jersey: rebuild Sandy Hook Station;

(4) Portsmouth, Virginia: construct new base (phase II);

(5) Islamorada, Florida: construct permanent facilities;

(6) Monterey, California: rebuild Monterey Station and construct moorings at Santa Cruz;

(7) Coos Bay, Oregon: construct new air station;

(8) Cape May, New Jersey: expand electrical capacity at training center;

(9) Yorktown, Virginia: construct barracks at training center;

(10) Cocoa Beach, Florida: establish C–130 aircraft facility at Patrick Air Force Base;

(11) Fort Pierce, Florida: rebuild station;

(12) Port Isabel, Texas: renovate station;

(13) Dana, Indiana: renovate barracks at Loran Station;

(14) Various locations: abate pollution from stations;

(15) Washington, District of Columbia: procure and install National Response Center Information System equipment;

(16) Various locations: aids to navigation projects on selected waterways;

(17) Various locations: automate light stations;

(18) Presque Isle, Maine: construct station for Loran-C development project;

(19) Houston, Texas: establish marine traffic control system;

(20) Various locations: public family quarters;

(21) Various locations: advance planning, survey, design, and architectural services; project administration costs; acquire sites in connection with projects not otherwise authorized by law.

SEC. 2. For fiscal year 1973 the Coast Guard is authorized an average active duty personnel strength of 39,074.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 28, 1972.

Hon. SPIRO A. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill, "To authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard."

This proposal is submitted under the requirements of Public Law 88–45 which provides that no funds can be appropriated of vessels or aircraft or the construction of shore or offshore establishments unless the appropriation of such funds is authorized by legislation. Section 2 of the proposed bill responds to section 509 of P.L. 91–441 which directs that Congress shall authorize for each fiscal year the average annual active duty personnel strength of each of the Armed Forces.

The proposal includes, as it has previously, all items of acquisition, construction, and improvement programs for the Coast Guard to be undertaken in fiscal year 1973 even though the provisions of Public Law 88–45 appear to require authorization only for major facilities and construction. Inclusion of all items avoids the necessity for arbitrary separation of these programs into two parts with only one portion requiring authorization.

Not all items, particularly those involving construction, are itemized. For example, those involving navigational aids, light station automation, public family quarters, and advanced planning projects contain many different particulars the inclusion of which would have unduly lengthened the bill.

In support of the legislation, the cognizant legislative committees will be furnished detailed information with respect to each program for which fund authorization is being requested in a form identical to that which will be submitted in explanation and justification of the budget request. Additionally, the Department will be prepared to submit any other data that the committees or their staffs may require.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

JOHN A. VOLPE.

By Mr. STAFFORD:

S. 3243. A bill to amend the Railway Labor Act to provide more effective means for protecting the public interest in national emergency disputes involving the railroad and airline transportation industries, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. STAFFORD. Mr. President, today I am introducing a bill to amend the Railway Labor Act to provide for a more effective means for protecting public interest when a strike in the railroad or airline transportation becomes a national emergency.

The distinguished Chairman of the Senate Committee on Labor and Public Welfare (Mr. WILLIAMS) has announced an executive session of the Labor Subcommittee for March 17 to consider emergency strike legislation. Thus I am offering in the form of legislation some ideas that have come to me during the course of events leading up to the passage of Senate Joint Resolution 187 by the Senate earlier this month.

There are many different proposals pending before the subcommittee which will need long and hard evaluations by the committee members. I feel the ideas I am presenting could possibly lead to a rational solution to this complex problem without infringing too much on the rights of either party while protecting the public.

Being a strong supporter of free collective bargaining and a union's right to strike, I am saddened at the fact that this process of settling a workingman's grievances has deteriorated to the point where congressional action is being called for by the public.

I am in full agreement with Senator WILLIAMS that the complexities of the legislation and the nature of its impending impact on our system of labor-management relations obviates the need for more thorough hearings.

Briefly my bill would guarantee a union's right to selectively strike segments of the railroad industry without fear of a national lockout after procedure under the existing Railway Labor Act has been exhausted. If, as a result of the strike or other circumstance surrounding the dispute, a national emergency developed, then the President could go into Federal court to obtain a Taft-Hartley type of injunction against the strike. Providing a back-to-work order was issued by the courts, then the President would issue an Executive order for Government operation of the industry. Penalties would be invoked against the disputant parties as a result of the Government having to take action. The profits sustained by the carriers involved during the period of Government operation would be transferred to a trust fund. The unions involved would suffer the loss of retroactivity of wages and benefits for that period of U.S. operation. This is a kind of "plague" on both your Houses approach if you cause injury to the public as a result of the dispute.

My bill is premised on the belief that the Government operation procedure is a last resort and that both union and management will find it unsatisfactory and work out their differences in free collective bargaining. I feel, with the union having a guaranteed right to selective strike, the last resort provisions would seldom, if ever, be used.

Mr. President, I ask unanimous consent that the text of my bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Railway Labor Act as amended (45 U.S.C. 151) is hereby amended by redesignating sec-

tions 11 to 14, inclusive, as sections 14 to 17, respectively, and by inserting the following new sections 11, 12 and 13:

"SETTLEMENT OF EMERGENCY DISPUTES"

"SEC. 11. (a)(1) If the parties to a dispute do not reach agreement during the thirty-day period following the making of a report by a Board appointed under section 10, the representative of the employees affected by the dispute may selectively strike any of the carriers or carrier systems to whom such proposal was directed without concurrently striking other carriers to whom such proposal was also directed and who may have been jointly or concurrently involved with the struck carrier or carriers in the previous handling of the dispute under this Act.

(2) For purposes of this section, a selective strike in the railroad industry means (A) a strike of not more than one carrier operating in each of the eastern, western and southwestern regions are struck, (B) a strike of two or more carriers or groups of carriers operating in a system in any one of the eastern, the western, or the southeastern regions are concurrently struck and the aggregate revenue ton-miles transported by all such carriers in any one region who are concurrently struck did not in the preceding calendar year exceed 30 per centum of the total revenue ton-miles transported by all carriers in such regions in such year. If only one railroad carrier is struck in any one region, the revenue ton-miles limitations shall not apply in that region. The eastern, the western and the southeastern regions as used herein mean, respectively, the carriers represented by the Eastern, Western and Southeastern Carriers Conference Committees and any other carriers operating in the territories in which such carriers respectively operate.

"(3) For the purpose of this section a selective strike in the airline industry means a strike of two or more carriers whose total aggregate revenue-passenger miles do not in the preceding year exceed 30 per centum of the total revenue-passenger miles for the United States.

"(b) If the parties to a dispute do not reach agreement during the thirty day period following the making of a report by a Board appointed under section 10, the carrier or carriers to the dispute may make changes in terms and conditions of employment effective without agreement, provided that such changes were originally proposed in accordance with section 6 of this Act by such carrier or carriers.

"(c) Whenever a selective strike occurs under the provisions of this section, it shall be unlawful for any carrier to lock out any craft or class of its employees, or any segment of any such craft or class, or in any manner to diminish its transportation service in consequence of any dispute subject to this section unless such carrier is caused to diminish such service by a strike of all or some portion of its employees; and then only as permitted by applicable agreements and in accordance with the notice and other provisions of such agreement.

"(d) In any dispute subject to the provision of this section, any agreements affecting rates of pay, rules, or working conditions between the employees or their representatives and any carriers which have been struck under this section shall be immediately offered jointly, without change, to all carriers who have been jointly or concurrently involved in the previous handling of the dispute under this Act. If all such carriers do not, within ten days after any such offer, jointly accept such agreements without change, the agreements shall be then offered individually, to each such carrier. If any such carrier does not, within ten days after having received such individual offer, individually accept such agreements without change, the employees affected by the dispute may selectively strike such carrier, subject to the limitations specified in subsection (a) of this section.

"SEC. 12. (a) Whenever, in the opinion of the President of the United States, a threatened or actual work stoppage, if permitted to occur or to continue, will

"(1) imperil the national health or safety; or

"(2) interrupt interstate commerce so as to deprive any section of the country of essential transportation service to an extent beyond that permitted by section 11(a);

he may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such work stoppage or the continuation thereof.

"(b) Upon the filing of a petition under section 12(a), the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, subject to the limitations set forth in section 11(a), and to make such other orders as may be appropriate.

"(c) In any proceeding brought under this section, the provisions of the Act of March 23, 1932, entitled, "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable.

"(d) The order or orders of a district court of the United States issued under this section shall be subject to review by the appropriate United States Court of Appeals and by the Supreme Court of the United States upon writ of certiorari or certification in accordance with section 1254 of title 28, United States Code.

"Sec. 13(a) Upon issuance of an order by a district court of the United States enjoining a work stoppage under section 12, the President shall issue an executive order for the United States to take possession of and operate, in whole or in part, any carrier involved in the dispute in question, and prescribing the operating procedures to be followed by the parties thereafter and any other actions which he determines to be necessary or appropriate to protect the health and safety of the Nation or that substantial part of the population or territory thereof which is relevant to such labor dispute. Such executive order shall be in effect for the shortest period of time consistent with the emergency and a resolution of the dispute, and shall (1) provide for the maintenance or resumption of operations and service essential to the national or regional health and safety, (2) encourage resolution of the dispute through collective bargaining, (3) encourage and preserve future collective bargaining with industry affected, and (4), to the extent consistent with meeting the emergency, avoid undue interference with the rights of the parties to the dispute. Such executive order shall be immediately transmitted to the Congress.

"(b) During any period of government operation of the carrier under this section, the profits realized (by said carrier) as determined by the Comptroller General of the United States shall be placed in a Labor-Management Trust fund and notwithstanding any other provision of law, only for carrying out the provisions of this Act.

"(c) The penalty imposed upon the unions directly involved in the strike with the industry shall be the loss of the right to retroactivity in pay and benefits for that period of operation invoked under subsection (a).

"(d) Upon the issuance of an order by a district court of the United States enjoining a work stoppage under section 12, no changes shall be made by the parties to the controversy in the conditions out of which the dispute arose, except by agreement, until the procedures set forth in this section have been completed.

"(e) Upon issuance of the order of the district court under section 12, the parties to the dispute shall immediately resume collective bargaining. The National Mediation Board shall give all reasonable assistance to the parties and shall continue mediatory action directed toward promoting a complete and final voluntary agreement.

"(f) When a voluntary agreement is reached, it shall be filed with the President and the district court having jurisdiction of the parties under section 12. The court shall forthwith issue an order dissolving any outstanding injunction or restraining order and order such other affirmative action as may be appropriate. The President shall take whatever action is necessary to return possession and operation of any carrier taken under section 13, to that carrier.

"(g) Nothing in this section shall be construed to limit the right of any employee to resign from his position of employment."

SECTION-BY-SECTION ANALYSIS OF SENATOR STAFFORD'S AMENDMENT TO THE RAILWAY LABOR ACT

Section 11(a). Permits a selective strike after procedures and time limitations of section 10 have been exhausted. Places a cap on the selective strike of 30% of revenue-ton miles if more than one line is struck in a region. Allow the striking of one line in each region regardless of the revenue-ton mile cap. Airlines are subject to the 30% cap for U.S. revenue passenger miles.

(b) Permits unilateral changes in terms and conditions of employment by carriers after procedures and time limitations of Section 10 have been exhausted, provided such changes were initially proposed by carriers through proper section 6 notices.

(c) Prohibits carriers from locking out as a result of a selective strike unless the particular carrier is struck in whole or in part.

Section 12(a). Authorizes Attorney General to seek injunctive relief in federal district court if the President concludes that national health and safety is imperiled or that permissible limits of selective strike have been exceeded.

(b) Authorizes district courts to prevent or halt a strike by injunction upon appropriate findings.

(c) Makes Norris-La Guardia anti-strike injunction legislation inapplicable to this section.

(d) Order of the District Court is subject to review by the Court of Appeals and Supreme Court.

Section 13(a). Upon issuance of the Court order the President can issue an executive order for the United States to seize and operate the carrier in whole or part for the shortest period of time consistent with the emergency. The order must be transmitted to Congress.

(b) Profits realized by the carriers during the period of government control will be transferred to a Labor Management Trust Fund by the Comptroller General of the U.S.

(c) Unions directly involved in the dispute lose right to retroactivity of pay and benefits for that period of operation.

(d) Status quo reserves during the section 13 procedures.

(e) Duty to continue collective bargaining with reasonable assistance provided by the National Mediation Board.

(f) Where a voluntary agreement is reached it is filed with the President and the district court which takes appropriate action to dissolve proceedings taken under sections 12 and 13.

(g) Law does not prohibit any employee from resigning during a period of government operation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S 2135

At the request of Mr. KENNEDY, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2135, a bill to amend title V of the Social Security Act.

S. 2689

At the request of Mr. CHURCH, the Senator from Alaska (Mr. STEVENS) and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

S. 2939

At the request of Mr. HANSEN for Mr. BROCK, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Georgia (Mr. GAMBRELL), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PASTORE), the Senator from Texas (Mr. TOWER), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nevada (Mr. BIBLE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2939, a bill to establish a National Commission on Corrections.

S. 2956

At the request of Mr. JAVITS, the Senator from Delaware (Mr. BOGGS) was added as cosponsor of S. 2956, the war powers bill.

S. 2995

At the request of Mr. KENNEDY, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 2995, the Victims of Crime Act of 1972.

S. 3080

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. TAFT) and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 3080, a bill to amend the Lead Based Paint Poisoning Prevention Act.

S. 3141

At the request of Mr. METCALF for Mr. MUSKIE, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. BROCK), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 3141, the Intergovernmental Personnel Act Amendments of 1972.

SENATE JOINT RESOLUTION 201

At the request of Mr. DOLE, the Senator from Utah (Mr. BENNETT), the Senator from Alaska (Mr. STEVENS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of Senate Joint Resolution 201, to establish a joint congressional committee to investigate the causes and origins of U.S. involvement in the hostilities in Vietnam.

SENATE RESOLUTION 265—SUBMISSION OF A RESOLUTION TO COMMEMORATE THE WRITING OF THE HYMN "AMERICA"

(Referred to the Committee on the Judiciary.)

AMERICA

Mr. BROOKE. Mr. President, I submit today a resolution to designate April 9, 1972, as a day to commemorate the patriotic hymn "America."

This well-known hymn, which is sung regularly in public places throughout the Nation, was written 140 years ago by the Reverend Samuel Francis Smith while he was attending the Andover Theological School in Andover, Mass. The school, subsequently affiliated with the Newton Theological School and is now known as the Andover-Newton Theological School, is the oldest theological seminary in the Nation.

The words of this great hymn carry an inspiring message for all Americans. The hymn is truly a patriotic paean exalting the spirit of freedom which marks this Nation's heritage. The shining light of liberty is the theme of the hymn, and is a blessing of which we should ever be mindful and grateful.

By approving the establishment of a national day of commemoration, the Congress could demonstrate its appreciation for the simple but inspiring message which this hymn has brought to hundreds of millions of Americans. I believe that the 140th anniversary of its composition is an appropriate time for the author of the hymn to receive this deserved recognition. I ask that the words of the hymn, and the resolution, be printed at this point in the RECORD.

There being no objection, the resolution and hymn were ordered to be printed in the RECORD, as follows:

S. RES. 265

Whereas the patriotic hymn "America" carries an inspiring message recalling our Nation's heritage in simple but poetic phrases;

Whereas Samuel Francis Smith wrote the words of "America" while a student at the Andover Theological Seminary in Massachusetts one hundred and forty years ago; and

Whereas it would be fitting and proper to establish a national day of commemoration to show respect for the hymn and its author: Now, therefore, be it

Resolved, That it is the sense of the Senate that (1) the President should designate Sunday, April 9, 1972, as a national day commemorating the hymn "America" which was written by Samuel Francis Smith one hundred and forty years ago, and (2) that the anniversary of the writing of that inspirational hymn should be celebrated with appropriate ceremonies at the Andover-Newton Theological School in Newton Centre, Massachusetts, and at other public places throughout the Nation.

AMERICA

My Country 'tis of thee,
Sweet land of Liberty,
Of thee I sing:
Land where my fathers died,
Land of the Pilgrims' pride,
From every mountain side
Let Freedom ring!

My Native Country, thee,—
Land of the noble, free—
Thy name I love!
I love thy rocks and rills,
Thy woods and templed hills;
My heart with rapture thrills,
Like that above.

Let music swell the breeze,
And ring from all the trees,
Sweet Freedom's song;
Let mortal tongues awake,
Let all that breathe partake,
Let rocks their silence break;
The sounds prolong.

Our father's God! to Thee,
Author of Liberty,
To Thee I sing.
Long may our land be bright
With Freedom's holy light;
Protect us by thy might,
Great God our King!

The Reverend GEORGE FRANCIS SMITH.

SENATE RESOLUTION 266—SUBMISSION OF A RESOLUTION RELATING TO THE RELEASE OF THE FULL AMOUNT OF FUNDS APPROPRIATED FOR 1972 TO THE FARMERS HOME ADMINISTRATION

(Referred to the Committee on Agriculture and Forestry.)

Mr. MONDALE. Mr. President, on behalf of my distinguished colleague from Minnesota (Mr. HUMPHREY), and myself, and Senators JORDAN of North Carolina, BAYH, BURDICK, HARTKE, ALLEN, HARRIS, CHURCH, CRANSTON, and CHILES, I submit a resolution, and ask unanimous consent that it be printed at this point in the RECORD together with a statement prepared by Senator HUMPHREY.

There being no objection, the resolution and statement were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 266

Whereas, Congress appropriated a total of $350 million for the Farmers Home Administration farm operating loan program and $100 million for the Farmers Home Administration water and waste facility grant program for Fiscal Year 1972; and

Whereas, the Office of Management and Budget is still withholding from use $75 million for the farm operating loan program and $58 million for the water and waste facility grant program; and

Whereas, as of this date, 15 states are totally without farm operating loan funds to accommodate pending qualified loan applicants; and

Whereas, many hundreds of family farmers will be forced off their farms if credit is not immediately forthcoming prior to the planting season; and

Whereas, as of this date, 26 states are either totally or are almost without water and waste facility grant funds to help small communities finance needed establishment, expansion or improvement of water and waste facility systems; and

Whereas, the provision of these funds is essential to the health and well-being of people living in small communities: Now, therefore be it

Resolved, That it is the sense of the Senate that all appropriated funds for the Farmers Home Administration's farm operating loan program and water and waste facility grant program authorized by the Consolidated Farmers Home Administration Act of 1961 for Fiscal Year 1972 be immediately released by the Office of Management and Budget.

ADMINISTRATION CONTINUES TO WITHHOLD URGENTLY NEEDED FARM OPERATING LOAN AND SMALL COMMUNITY WATER AND WASTE FACILITY GRANT FUNDS

(By Senator HUMPHREY)

Mr. President, on February 1, 1972 the President sent his Rural Development message to Congress. In addition to renewing his

request that Congress pass his Rural Community Development Revenue Sharing and Reorganization proposals, he offered yet another proposal to establish a $1.3 billion rural credit-sharing program to begin in Fiscal Year 1974. The $1.3 billion authorized under this proposal also includes the existing water and waste facility grant program and some increased authorizations for the farm operating loan program.

Mr. President, it's difficult for me, as I am sure it must be for many other Members of Congress, to lend any creditability to these proposals when the President continues to withhold funds already appropriated by Congress for these same purposes.

As of this date, the President's Office of Management and Budget is withholding from use $75 million in FHA farm operating loan funds appropriated by Congress for this fiscal year, despite the fact that the following 15 states are now totally without such funds:

Alabama, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, North Carolina, North Dakota, New Jersey, Oklahoma, South Carolina, and South Dakota.

Nationally, FHA has more than 8,600 farm operating loan applications now on hand. And it is estimated that $113 million will be required for the balance of this fiscal year to meet expected demands for such loans. This amounts to $38 million more than was even appropriated by Congress this fiscal year for this purpose. The Congress should insist that the $75 million now being withheld by the Administration for this loan program be released immediately.

With respect to the small community water and waste facility grant program administered by the Farmers Home Administration, the following 27 states are either now completely out of such grant funds, or soon will be:

Alaska, Alabama, Arkansas, California, Connecticut, Georgia, Idaho, Illinois, Indiana, Maine, Maryland, Michigan, Nevada, and New York.

North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.

Currently, there are almost 2,000 applications pending with FHA for small community water and waste facility grants, amounting to $150 million. However, despite all these pending applications, the Administration has announced that it intends to release or make available only $42 million of the $100 million appropriated by Congress for the program this fiscal year.

Again, I urge the Congress to insist that the Administration immediately release the $58 million they are still withholding for this grant program.

I also would like to call to the attention of the Senate that the $300 million Congress appropriated for the FHA water and sewer loan program will likely be totally depleted very soon. Almost 3,500 applications are now pending for such loans totaling $680 million. Unobligated FHA funds for this purpose are currently about $104 million.

A very important thing we must keep in mind about these programs is that they are basically programs of "last resort". When a farm family or a small community turns to the Farmers Home Administration for help to meet their farm operating or community facility needs, they must first be turned down for credit elsewhere. And if they fail to qualify for FHA assistance, or have their approved applications held up for extended periods of time, awaiting funding, they are, as the saying goes, "put out of business". And, Mr. President, it is for this reason that the current Administration's action to withhold these urgently needed funds is so cruel and heartless. Also as I said earlier, such action does not lend any creditability to the Administration's new proposal regarding these programs.

Mr. President, in view of these Administration actions to deprive farm families and small communities of needed financial assistance, I wish to introduce the following Resolution on behalf of myself and several other Senators, which calls upon the Administration to immediately release the funds for these two important FHA programs. I ask unanimous consent to have the Resolution printed at this point in the RECORD.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 230

Mr. KENNEDY. Mr. President, on January 24, 1972, I submitted Senate Resolution 230 to encourage negotiations for a comprehensive nuclear weapons test ban treaty with the Soviet Union.

Basing my suggestion on the past success achieved by President Kennedy in negotiating the Partial Test Ban Treaty, my resolution also urges the President to announce a moratorium on underground nuclear weapons testing to remain in effect as long as the Soviet Union abstains from testing. This step would provide the same climate of mutual accommodation that was so successful in producing an agreement in 1963.

And I am pleased to announce that 12 Senators have now joined me in cosponsoring this resolution.

Therefore, Mr. President, I ask unanimous consent to add the following names as cosponsors of Senate Resolution 230, a resolution to encourage a moratorium on underground nuclear weapons testing and to promote negotiations for a comprehensive test ban treaty.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

LIST OF COSPONSORS

Senators CRANSTON, HARRIS, HUMPHREY, MCGOVERN, HUGHES, JAVITS, MONDALE, RIBICOFF, PELL, WILLIAMS, MAGNUSON, and CHURCH.

SENATE CONCURRENT RESOLUTION 64—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PROMOTION OF COL. EDWIN E. ALDRIN, JR., USAF

(Referred to the Committee on Armed Services.)

Mr. ANDERSON submitted the following concurrent resolution:

S. CON. RES. 64

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that in recognition of the vital contributions made by Colonel Edwin E. Aldrin, Jr., United States Air Force, to the manned space flight program, and particularly his contribution to the outstanding success of the Apollo XI moon flight, the said Colonel Aldrin should be promoted to the permanent grade of major general, and the President is hereby urged and requested to appoint the said Colonel Aldrin to such grade.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 33

At the request of Mr. HANSEN for Mr. BROCK, the Senator from Missouri (Mr. EAGLETON) and the Senator from Nebraska (Mr. HRUSKA) have been added as cosponsors of Senate Concurrent Resolution 33 regarding the persecution of Jews and other minorities in Russia.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 945

(Ordered to be printed and referred to the Committte on Finance.)

Mr. JAVITS. Mr. President, I introduce as an amendment to H.R. 1 language identical to S. 961, a bill I had introduced on February 25, 1971, to amend the Social Security Act with respect to exclusion of certain income received by artists and composers from the sale after age 65 of works created prior to their reaching age 65.

The Social Security Act now provides that individuals 65 years and over who are receiving royalty income attributable to copyrights or patents obtained before age 65 may exclude such income from their gross income in determining their social security entitlement.

The amendment I am introducing extends the provision to artists and composers who sell uncopyrighted works, thereby placing them on an equal basis with artists and composers receiving royalty income from copyrighted or patented works. The burden of proof remains upon the individual artist or composer to establish to the satisfaction of the Secretary of Health, Education, and Welfare when the art work or composition was created and when sold.

Although no precise estimates are available as to the number of individuals who would become eligible under this amendment, it should be noted that in order to be eligible, an individual author or artist must have created the work prior to age 65, and that his outside income does not exceed $1,680, the figure at which social security benefits are reduced. Estimates of the numbers of artists taking advantage of the present royalty income exclusion range in the low hundreds.

Thus, we are talking about a relatively few individuals out of almost 26.2 million social security recipients.

This proposal should be relatively easy to administer. By placing the burden of proof upon the individual we have followed the pattern of the 1965 amendments to the Social Security Act. The individual is thus required to prove his claimed exclusion to the Secretary's satisfaction consistent with existing law. Finally, the Secretary already has general rulemaking powers under the law with which to establish an orderly procedure for individuals claiming the right to exclude income under this amendment.

I hope, Mr. President, that the Committee on Finance in its consideration of H.R. 1 will favorably consider this proposal to correct an inequity in the law which penalizes older artists and composers at a time when they are living upon modest fixed incomes and dependent upon social security benefits.

I ask unanimous consent that the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 945

On page 134, between lines 15 and 16, insert the following new section:

DISREGARD, FOR PURPOSES OF EARNINGS TEST, OF CERTAIN INCOME FROM SALE OF COPYRIGHTS, LITERARY COMPOSITIONS, ETC.

SEC. 144. (a) Section 203 (f) (5) of the Social Security Act is amended by inserting after subparagraph (D) the following new subparagraph:

"(E) For purposes of this section, there shall be excluded from the gross income of any individual for any taxable year the gain from the sale or other disposition, during such year, of any property of such individual which is not, by reason of the provisions of section 1221 (3) (A) or (B) of the Internal Revenue Code of 1954, a capital asset of such individual as a taxpayer if—

"(i) such individual attained age 65 on or before the last day of such taxable year; and

"(ii) such individual shows to the satisfaction of the Secretary that such property was created by him, or (in the case such property consists of a letter, memorandum, or similar property) was prepared or produced for him prior to the date such individual attained age 65."

(b) The amendment made by this section shall be effective in the case of taxable years beginning after December 31, 1971.

EDUCATION AMENDMENTS OF 1972—AMENDMENTS

AMENDMENT NO. 946

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the committee amendment offered as a substitute for the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965 and related acts, and for other purposes.

AMENDMENT NO. 948

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to amendment No. 874 intended to be proposed to the committee substitute for the House amendment of the bill (S. 659), supra.

NOTICE OF HEARING BY COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. MOSS. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that a statement prepared by him be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

STATEMENT BY SENATOR JACKSON

Mr. President: I would like to announce to the members of the Senate that the Committee on Interior and Insular Affairs has scheduled an open hearing for March 22 on Title I of S. 921 and on S. 2401, legislation to provide for the management, protection and development of the national resource lands, and for other purposes. Title I of S. 921 and S. 2401, a bill submitted and recommended by the Department of the Interior, both deal with the so-called "organic act" for the public lands managed by the Bureau of Land Management in the Department of the Interior. The hearing will begin at 10:00 a.m. in room 3110 New Senate Office Building.

Outside witnesses were heard last September when the Committee considered these and other bills dealing with a broad range of problems pertaining to our publicly-owned lands, including reformation of the Mining Act of 1872.

However, it appears that it may be necessary to tackle these complex problems one step at a time. I share the views of many others who are familiar with the problems facing the administration of our great public domain lands managed by the Bureau of Land Management. I believe it is essential to provide a statutory charter or what is commonly referred to as an "organic act" to enable the Bureau to properly exercise its stewardship over these public assets. Title I of S. 921 and the Administration bill, S. 2401, both provide for the administration of these national resource lands based upon the concept of multiple use. Our national forest lands and the units of our national park system are guided under a set of principles contained in organic acts for each of those administrative agencies. I believe it is essential that the same type of legislative policy be enacted for the management of the public domain lands under the Bureau of Land Management.

Since the public had an opportunity to testify last September, this hearing will be limited to government witnesses who were not available to testify before.

Senator Lee Metcalf, who is a cosponsor of S. 921 and a strong proponent of this type of legislation, the intent of which seeks to reform our public land laws, will be chairing this hearing before the full committee.

ADDITIONAL STATEMENTS

AMTRAK—ON OR OFF THE TRACK?

Mr. COTTON. Mr. President, the Committee on Commerce now has pending before it a bill, S. 2760, which was introduced at the request of Secretary of Transportation Volpe and which proposes to provide the National Railroad Passenger Corporation—Amtrak—with increased financial assistance. The Subcommittee on Surface Transportation of the full committee conducted a hearing on this legislative proposal on October 6 and last November considered it in executive session, reporting to the full committee a subcommittee print containing several amendments.

It is my understanding that the House Committee on Interstate and Foreign Commerce has considered the companion bill, H.R. 11417, in an executive session, and has adopted several amendments.

Senators may recall that the Rail Passenger Service Act of 1970, establishing the National Railroad Passenger Corporation—Amtrak—was the subject of consideration during the 91st Congress. It provided, among other things, for the establishment of a Basic National Rail Passenger System over which Amtrak was required to provide service to July 1, 1973, in order that Amtrak could conduct a nationwide test to determine the appropriate role and level of rail passenger service in the development of a balanced transportation system.

Quite frankly, I supported the Rail Passenger Service Act of 1970 but not without some considerable personal reservations as to its efficacy. Indeed, I believe my views on this matter are substantially in accord with those of the distinguished chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON), who, on November 16, 1971, spoke in this Chamber on Amtrak. While acknowledging a place for a limited number of long-distance trains, Senator MAGNUSON noted, in part, the following:

I need hardly remind my colleagues that I have always recognized that *urban corridors* are where the passenger train has its greatest potential, and that the major effort in terms of financial investment should be made in those areas. (Emphasis supplied.)

I, too, believe that the greatest potential for effective utilization of passenger trains lies in such high density urban corridors as those located here in the Northeast and possibly on the Pacific coast.

I certainly take no pleasure in seeing some of my earlier reservations concerning the problems confronting amtrak materialize, and I do believe that it should be permitted to fulfill its period of experimentation as originally agreed to by Congress and embodied in the Rail Passenger Service Act of 1970. But I seriously question whether Congress should underwrite any further extension of the period of service mandated or an enlargement upon the role of amtrak unless there is clear and convincing evidence to the contrary.

In this connection and in view of the possibility of consideration by the Senate within the near future of the bill, S. 2760, I ask unanimous consent to have printed in the RECORD an article published in the Wall Street Journal of January 24 and a letter to the editor of that newspaper, dated January 25, from the president and chief executive officer of the Association of American Railroads. I believe that these documents speak for themselves and may prove to be beneficial to Senators with respect to the consideration of any further amendments to the Rail Passenger Service Act of 1970.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

AMTRAK ADMITS SERVICE IS LOUSY, AND IT BLAMES ROADS IT DEALS WITH

(By Albert R. Karr)

WASHINGTON.—When Amtrak took on the task of saving the nation's passenger trains last May, a nagging doubt arose: Could the public corporation depend for reliable train operations on the very railroads that saw no future for their own passenger service?

Now, nearly nine months later, it appears that the answer is no. One Amtrak official, piqued at what he describes as resistance of the contracting railroads to Amtrak initiatives, snaps. "They weren't successful in passenger business, they don't want anybody else to be successful, and they don't want anything to get in the way of their freight trains."

Amtrak officials say their hope of a bright new era for rail riders is being hampered, seemingly at almost every turn, by railroad reluctance to give passenger service a clear go-ahead.

Partly by favoring freight trains, railroads are allowing passenger trains to run late—at

least as late as they ever did, and that was pretty late. An Amtrak executive has been moved to write the Southern Pacific, accusing the road of "poor, if not negligent," dispatching. Southern Pacific passenger trains have been arriving on schedule only 60% of the time.

Among other Amtrak problems: Some major roads have balked at letting Amtrak trains use alternative routes in strikes or other emergencies. They're barring from their tracks many special trains as well as private passenger cars owned by travel agents and others (these can mean attractive business to Amtrak). Railroad employe treatment of passengers is often still inconsiderate, and reservation snafus are common, it is said.

Also, when the railroads saw they were close to dumping passenger trains on Amtrak, they quit servicing equipment, so Amtrak is paying for that neglect in train breakdowns and higher maintenance costs.

Finally, Amtrak men reel off examples of railroads' apparent inflation of train operating expenses, which the corporation pays.

DEMUR FROM THE RAILROADS

Railroaders insist they're doing all they can to cooperate with Amtrak. They say they've detailed passenger-service experts to help Amtrak operations men, for instance, and will give Amtrak every feasible break.

Louis W. Menk, chairman of the Burlington Northern, declares his road "is firmly behind Amtrak and trying hard to help the new company succeed." The railroad has sent letters and memos to its employes calling for improved performance and underscoring the Burlington Northern's support for Amtrak, Mr. Menk adds.

Nonetheless, a catalog of complaints is being hurled at the railroads. Some items:

Last May and June, before the Amtrak takeover, the Burlington Northern skipped the usual preventive maintenance on passenger cars, by Chairman Menk's own account. Now, as temperatures plunge below zero on the road's northern lines this winter, he himself has said, "I am really concerned about what may happen . . . with the state of the equipment that we are going to have to operate."

Mr. Menk's concern appears justified. On a Christmas-holiday trip from Minneapolis to Chicago, Minneapolis Star Reporter John Greenwald says his Burlington Northern car was cold (probably because of frozen pipes, the porter told him). When he found a seat in a warm, empty private compartment, the porter made him leave. The train arrived two hours late. And on a recent ride from Greely, Colo., to Lincoln, Neb., on the Burlington Northern, Blanchard R. Anderson, a Lincoln real estate man, reports his train was three hours late—heating problems being one reason, according to a station agent.

The experience "leaves a great deal of doubt" about the railroad's intentions, Mr. Anderson says. Despite 40 years of train riding, Mr. Anderson has shelved plans for a West Coast train trip in February.

FREIGHT TRAIN INTERFERENCE

Though Amtrak contracts call for railroads to give priority to passenger trains, reports to the corporation show "freight-train interference" caused nearly six hours of passenger-train delay, or about 43% of lateness for all causes, in one recent week of Southern Pacific operation; in another week, this share was 38%. When a bridge was knocked out at New Orleans, the Missouri Pacific let the Southern Pacific run its freight trains over MoPac tracks, Amtrak says, but wouldn't allow passenger trains. So passengers heading westward had to travel by bus for 165 miles before transferring to another Southern Pacific train.

And Rep. Lionel Van Deerlin (D. Calif.) reports that on a Jan. 3 journey from New Orleans to Los Angeles on the Southern Pacific's Sunset Limited, his train wound up 13 hours late; one reason was that a freight broke down ahead of it. (In San Antonio, a woman with a small child had to wait three hours in the middle of the night for the train to arrive; she had been told periodically by station personnel that it was only minutes away—before they went home, leaving her by herself.)

Amtrak officials say various railroads have been billing Amtrak for full pay of some employes who spend most of their time in freight work. Some railroads are said to be using more locomotives and more cars than necessary on passenger trains.

But while Amtrak is critical of the railroads, it has its critics, too; they say Amtrak is too timid in dealing with its contractors. Anthony Haswell, chairman of the Washington-based National Association of Railroad Passengers, says, "We may have to take some very drastic public action" against Amtrak. "These people are just abject tools of the railroads."

Rep. Van Deerlin, a member of the House Commerce Committee, which is considering an Amtrak request for an additional $170 million of federal cash, says that before voting in favor, "I want to make damn sure that Amtrak knows what it's doing and that lines like the SP know who's in charge. Right now, the SP is running the show."

Pressure is already being exerted on Amtrak by the Transportation Department. It has sent the corporation back to the railroads to find any cost ballooning or unneeded spending. A department official says Amtrak was instructed to tell the roads, "We can't afford all this expense, particularly if you're going to give us bad service."

Critics insist Amtrak could solve many of its problems by hiring its own station personnel and train crews. It has been reluctant, but it now is taking over some clerks and other station employes. The corporation hopes soon to employ the rest of these, as well as on-train personnel like conductors, and eventually, perhaps, even engineers and firemen.

Amtrak is also planning to push roads for better cooperation. "We're going to make the Southern Pacific sort of a test case," vows an official. But Roger Lewis, Amtrak chairman and president, is said to have decided to fight these battles privately; for public consumption, he usually praises the roads for cooperating.

LATE TRAINS

Amtrak's biggest problem with the railroads is probably late trains. Officials say so much slack has crept into schedules over the years that railroads should be able to meet them with ease. Yet in the first eight months of operation, only 79.9% of the Amtrak trains ran on time; the others trailed an average of 42 minutes behind schedule.

In the first two weeks of this month, the performance sagged a bit. Only 77.2% of the Amtrak trains ran on time; the others averaged one full hour late. In those two weeks, the Illinois Central trains were only 45.6% on time; the Louisville & Nashville 42.9%, and the SP, Missouri Pacific and Burlington Northern all about 61%.

In the week ended Jan. 15, most or all Amtrak trains were late on seven important long-distance runs, and the on-time performance of all long-haul trains was 51.4%. Though bad weather was partly to blame, an Amtrak man calls this record "totally unsatisfactory."

Amtrak singles out SP's Sunset Limited from Los Angeles to New Orleans as a horrible example of persistent tardiness. Harold Wanaselja, Amtrak operations vice president, recently wrote his SP counterpart, R. D. Spence, complaining of an on-time record of only 13.9% for the train over a 12-week period. Its late arrivals averaged one hour and 42 minutes, and often the Sunset was delayed over an hour by westbound freight trains, Mr. Wanaselja said.

"Needless to say," he wrote, "with sidings on the average of every 10 miles in this territory (for easy freight-train sidetracking before they approach the Sunset), the above record indicates poor, if not negligent, dispatching. It is obvious . . . that Southern Pacific isn't making every reasonable effort to maintain the schedule (of the Sunset) as is required by our . . . agreement."

A "MARKED IMPROVEMENT"

Robert Jochner, the railroad's general manager for passenger operations, says that Amtrak and SP officials have been meeting on the Sunset problem, and he insists there's been a "marked improvement" in performance recently. He acknowledges considerable lateness by the Sunset previously but says there were a "lot of unusual problems," including equipment breakdowns and heavy passenger and freight-train operations over the single track the train uses. Mr. Jochner adds that some difficulties have been beyond the SP's control, like a knockout of a bridge.

Most sources agree that much of the lateness is traceable to worn-out locomotives and cars, often a result of many railroads' decisions to give up maintenance when they knew Amtrak would be taking over.

W. T. Rice, Seaboard Coast Line chairman, blames his road's poor on-time record in part on frequent delays for emergency repairs. He recalls that when Amtrak couldn't meet an Aug. 1, 1971 deadline for deciding what equipment to buy from the roads, the Seaboard didn't want to spend "a large amount of money to repair a locomotive which we do not know how long Amtrak will use." He adds: "We are paying the price for it right now."

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., January 25, 1972.

EDITOR,
The Wall Street Journal,
New York, N.Y.

DEAR SIR: Your January 24 edition carried an article tagged "Deriding the Rails"—and I must agree that is exactly what the story sought to do.

The story rests principally on the comments of anonymous persons identified only as "Amtrak officials." They are not named—a fact which obscures the qualifications of your sources to judge the performance of the railroads involved in running Amtrak trains. The impression that quotations give, and the conclusions which your reporter draws from them, are totally at variance with the position Amtrak officials, in a position to know and willing to be quoted, have just taken in the appropriate forum—the Congressional hearings (before the House Committee on Interstate and Foreign Commerce in December) where these matters were investigated.

The basic premise of this piece—that the railroads "don't want anybody else to be successful" in the passenger business, as one of your anonymous sources supposedly put it—is absurd. If Amtrak can succeed, it will become a valuable customer of the railroads, using railroad facilities and services, paying reasonable compensation for them, and adding to railroad revenues and profits. Its success will in no way reflect discredit on the railroads because of Amtrak's obvious advantages—a reduced system, one national pool of equipment, centralized management, and direct Federal financial support. If Amtrak fails, the railroads will be blamed for the failure, most assuredly, as every railroad man who gives the matter a moment's thought knows.

From the beginning, the railorads have sought to improve Amtrak's chances to succeed. The railroads voluntarily signed a contract decidedly favorable to Amtrak under which Amtrak reimburses railroads for what

the Interstate Commerce Commission calls "solely related costs" of the passenger service rendered plus an adjustment to cover other costs which would be avoided if the passenger business were discontinued. Thus, Amtrak pays little or nothing for maintenance of way, real estate taxes, and fixed charges on the railroad right-of-way and operating property used by Amtrak trains. The railroads involved are convinced they lose money on the Amtrak operation under this arrangement.

This unprofitable arrangement with Amtrak is a contribution by the railroads to the public interest. The price the railroads were required by Congress to pay for the privilege of terminating the costly passenger business which they operated is over and above this and is different. Under the statute, the price of terminating passenger operations of their own is a contribution of nearly $200 million to Amtrak, which the railroads are currently paying.

Both Amtrak and the railroads have experienced extremely difficult problems during the period of transition. The Amtrak incorporators, who later became its first Board of Directors, and Amtrak management when it was assembled, did an incredible job in an extremely short time in instituting a nationwide passenger service. They were aided in this by a major study made by the railroads under which problems were anticipated and solutions were recommended in order to permit Amtrak to start on time. The problems of laying out the system, determining the trains to be run, assembling the equipment and agreeing upon operating procedures were incredibly complex. They never could have been solved had not a major effort at cooperation been forthcoming on both sides.

There is no question but what both the railroads and Amtrak still have a long way to go in our joint effort to provide the best of passenger service. While we will undoubtedly continue to have delays for various reasons—equipment breakdowns, bad weather, grade crossing accidents, and the like—we will continue our efforts to hold them to a minimum. These conditions causing delays affect passenger and freight trains alike.

The article dwells at length on assertions that freight trains receive priority over passenger trains. As a matter of policy and sound operating practice, passenger trains, which operate on tight schedules, must get priority over freight trains. Railroad officers testified on this subject at length at the House Committee hearings in December. The proof lies in the statement by Roger Lewis, Amtrak's president, that less than three percent of the delays on Amtrak trains result from a breakdown in this priority.

Your article indicates that the railroads deliberately let passenger equipment run down when the Amtrak take over was assured, and that current delays and inconveniences are the result.

A realistic assessment of the situation reveals that, early in Amtrak's existence, it stated that it planned to acquire about 1,200 passenger cars out of a fleet of 3,000 then in operation. The railroads were ready and willing to do any and all required maintenance on the cars Amtrak wanted. But—quite naturally, I think—they had to know which pieces of equipment were to be continued in service before they could proceed.

As for the specific complaint that the Burlington Northern "skipped the usual preventive maintenance" last May and June, this was not "before the Amtrak takeover," as you reported, but rather after it. And the concern expressed by Louis W. Menk, chairman of the railroad, was over the fact that maintenance "historically done" by the railroad in preparation for the winter season had not yet been approved by Amtrak, with all its other problems. No one denies that there have been incidents where indivduals have been terribly inconvenienced—and no one regrets them more than the railroads. But let's consider just one of the occasions you cited. It involved the washout of a bridge on the Southern Pacific line near New Orleans. Another railroad—the Missouri Pacific—allowed SP freight trains to move over its line during the emergency but would not allow Amtrak passenger trains to do so, according to your report.

You might have gone on to point out that the reason for this was the absence of an agreement with Amtrak indemnifying MoPac against the possibility of an accident. Such agreement are standard among the railroads, and Southern Pacific entered into one with MoPac on this occasion. But Amtrak's policy, still under development, did not permit such an agreement. The indemnification problem, incidentally, complicates the re-routing of trains, the operation of special trains—and, most certainly, of the frequently over-age and out-of-repair "private passenger cars owned by travel agents and others" to which your article refers.

You are very critical of the railroads for not voluntarily increasing expenses to maintain and repair equipment in anticipation of possible Amtrak needs—and then, a moment later, for billing Amtrak for excessive charges under the contracts. I hate to think what your reporter would have said had railroads sought to collect from Amtrak for work done on cars and engines which Amtrak decided not to take.

This problem and the present differences between the railroads and Amtrak on the current financial accounts are aspects of the broader problem of transition. The accounts are under audit and, as Amtrak has said, "to speculate at this stage on the scope of the differences, the dollars involved and how the differences will be resolved is premature."

The railroads and Amtrak are partners in an extremely difficult enterprise. We can only succeed if we work together. Isn't it tme that the railroads and Amtrak are given a fair chance to do their respective jobs?

Very truly yours,

STEPHEN AILES,
President and Chief Executive Officer.

CHILD DEVELOPMENT PROVISIONS OF THE OEO

Mr. KENNEDY. Mr. President, shortly the Senate will be considering anew the extension of the Office of Economic Opportunity. I believe this measure is essential if we are to maintain even the semblance of a commitment to the disadvantaged of this land.

I also believe that many Senators who voted to support the President's veto of the bill last session did so very luctantly. I say that because a reading of the Senate debate indicates, as the New York Times so aptly commented at the time:

The arguments put forth in the veto message are not convincing.

Although there was disagreement over some of the details of the measure most objections settled on the child development provisions. Yet those provisions offered a chance—not compulsion, simply a chance that does not exist today—to extract preschool children from disadvantaged homes and provide them with stimulating educational experiences during the time it counted most, the years before they entered the public school system.

Supporting the President's veto meant supporting a concept of day care only for welfare recipients, and only for custodial care.

Therefore, I hope that the Senate and House of Representatives will consider this matter again, now free from end-of-session pressures, and will recognize the need for comprehensive child care services and for an expanded Office of Economic Opportunity program.

Mr. President, I ask unanimous consent that the editorial published in the New York Times of December 11, 1971, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ABANDONED COMMITMENT

President Nixon explained his veto of the child development program by calling the plan too costly, administratively unworkable, professionally ill-prepared and designed to undermine the American family. The sweeping nature of this attack cannot obscure the fact that the concept of child care and development enjoys broad popular support across most of the traditional divisions of politics, class, economics and race.

The arguments put forth in the veto message are not convincing. Initial costs would not have been high. By limiting free services to the welfare level of poverty, Congress had already responded to the Administration's budgetary objections. Contributory fees could readily have been revised later, when operations would have provided a clearer picture of the extent of voluntary participation.

The President's vague reference to an unworkable bureaucracy reflects the Administration's apparent preference for control and management by the states, hardly the best administrative level for action that must be geared to local communities and neighborhoods. Participation by a wide variety of public and non-profit private agencies was one of the attractive features of the plan.

The President's charge that day care weakens the family ingores the realities of much of modern family life. Poor and working-class families normally have to leave their children improperly supervised or entirely unattended for much of the day; families at virtually all other income levels rely heavily on baby-sitters and, in the upper brackets, on a variety of domestic help.

Mr. Nixon is justified in his concern over the lack of trained personnel, but much of the bill's first-year expenditures was to be dovoted to the necessary training. The veto suggests that the President's concept of child care is limited to welfare cases and is only custodial at that. This approach reduces the chances that disadvantaged children will be lifted out of their debilitating environment at an early age.

In his message, Mr. Nixon observed that the proopsal "points far beyond what the Administration envisioned" when it made its earlier commitment of providing healthful and stimulating development for all American children during the first five years of life. But in the absence of a positive program, his veto has reduced that supposed commitment to mere political rhetoric.

EQUAL JOB OPPORTUNITY

Mr. JAVITS. Mr. President, the Senate's vote last Tuesday to pass the EEOC bill was truly a great step forward in our continuing battle to insure equal employment opportunity for all Americans. I believe the Senate bill is clearly superior to the version passed by the House. For example, the Senate bill extends coverage of title 7 of the Civil Rights Act of 1964 to employees of State and local governments and employers with 15 or more employees, rather than the present 25. Also, the Senate bill does

not limit class actions, nor does it make title 7 the exclusive remedy for employment discrimination.

The New York Times in an editorial yesterday commented on the superiority of the Senate bill over the House version. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BANISHING JOB BIAS

The Government's arsenal of legal weapons against race and sex discrimination in jobs will be strengthened significantly if the bill adopted by the Senate after weeks of Southern filibuster prevails in conference.

Since the passage of the omnibus Civil Rights Act of 1964, the effectiveness of the Equal Employment Opportunity Commission has been gravely weakened by the agency's lack of enforcement authority. It had to rely on actions initiated by the Justice Department when it felt able to document a "pattern" of job bias.

Under the new bill, as passed in both Senate and House, the commission will have power to go to court on its own initiative against recalcitrant employers or unions. Even though civil rights organizations would have preferred to have the E.E.O.C. issue cease-and-desist orders on its own, we believe the court remedy is preferable to reliance on a politically appointed commission whose members change with each new President. No enforcement method will achieve much, however, without a vigorous approach by E.E.O.C. to its no-bias mandate.

The Senate bill in its extension of the commission's jurisdiction to more than ten million employes of state and local government is plainly superior to the version the House approved last September. The House had surrendered to pressure from legislators eager to defeat integration of police and fire departments and other local services. Conference approval of the Senate changes, followed by Presidential signature, would do much to round out the statutory defenses against discrimination based on color or sex.

HARD-MATCH FUNDING FOR SAFE STREETS ACT

Mr. SPONG. Mr. President, on February 7, I introduced a bill (S. 3137) to amend the Safe Streets Act of 1968 to delay for 1 year the so-called hard-match funding requirement imposed on the States by a 1971 amendment to the law.

Where previously States have been able to provide equivalent value goods and services in lieu of cash, the amended act requires that effective July 1, 1972, at least 40 percent of the non-Federal funding be in money.

Mr. President, as a result of this and other amendments which require the States to assume a greater financial burden in connection with the program, my own State of Virginia stands to lose over the next 2 years about $14 million in Federal action grants which otherwise would be available to it.

Other States are experiencing similar problems. According to a national survey undertaken for the Association of State Planning Agency Directors by Mr. George W. Orr, executive director of the Iowa Crime Commission, 17 States thus far have indicated they will have to reduce their participation in LEAA drug and crime programs or drop out altogether unless some relief is granted. Those States are Kansas, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Indiana, Louisiana, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, West Virginia, and Virginia.

The amendment I have introduced will provide only limited relief to the States but it is vitally important in terms of the serious drug and crime problem the program is meant to relieve. Next year, the LEAA program again will be up for authorization. I hope that at that time Congress will give a long, hard look at all the funding provisions, including the State "buy-in."

Delay of the hard-match requirement would be a helpful interim step until then and I would hope early action can be taken on the bill.

COMMUNITY SCHOOLS

Mr. MONDALE. Mr. President, I am pleased to announce today my cosponsorship of S. 2689, the Community School Development Act. I appreciate the opportunity to work for such legislation because I believe that our educational system could benefit greatly by opening school doors to the whole community, not just to schoolchildren.

The Minnesota Department of Education and some local jurisdictions in Minnesota, notably Duluth and St. Louis Park, have already begun to develop community school programs.

I wholeheartedly support the principle of community schools that are directly responsive to local needs. In working for this legislation I intend to offer amendments that I hope will assure that local needs are met and that the funds are distributed to projects in such a manner as to maximize their effects.

THE HONORABLE CARL T. HAYDEN

Mr. KENNEDY. Mr. President, it is with deep regret that I mark the passing of our former colleague, the Honorable Carl T. Hayden, a Member of this body for almost half a century. In serving seven terms as a Senator from Arizona, he established a record for longevity of service that is very likely to stand for many years to come. Significantly, prior to his service in the Senate, he spent an identical number of terms in the House of Representatives. And so, his total years in service to his country in Congress number 56—and always, this service was extremely productive.

A master in administrative matters, Senator Hayden rose to prominence initially as chairman of the Senate Committee on Rules and Administration, a position that preceded his tenure as chairman of the Committee on Appropriations. In the latter chairmanship, he became one of the most influential figures in Washington, and an outstanding expert on Federal budgetary matters.

Senator Hayden was a strong supporter of liberal reforms, and new Federal programs, and he presided over the Appropriations Committee during a period of substantial increases in Federal expenditures. He recognized that the rapid growth of the Nation's population required larger Federal budgets each year to keep pace with existing public services, but he was also a strong supporter of additional Federal programs whenever the need became apparent.

Senator Hayden was a leading advocate of social security legislation and of sweeping reform measures in the areas of mining, reclamation, and public lands. He supported the New Deal, the Fair Deal, the New Frontier, and the Great Society, and he gave his strong endorsement to the monumental struggle for civil rights under Presidents Kennedy and Johnson.

In other major areas of his legislative activity, Senator Hayden was one of the most effective supporters of Federal aid to education. He was also influential in securing the enactment of progressive Federal highway legislation and water development programs, two areas of vital concern to the business and consumer interests of his State of Arizona. Indeed, in September 1968, when President Johnson signed into law the Lower Colorado River Basin bill, he singled out Carl Hayden for special Presidential praise, and cited him as the man responsible for that valuable and pioneering piece of legislation.

Senator Hayden's background was deeply tied to the State he loved and served. He was born in 1877, during the administration of President Rutherford B. Hayes. His birthplace was Tempe, Ariz., which had previously been named "Hayden Ferry," in honor of his father. He graduated from the Normal School of Arizona at Tempe in 1896 and attended Stanford University. On returning to Tempe, he opened a flour mill and served a term on the town council. He was a delegate to the Democratic National Convention in St. Louis in 1904 that nominated Judge Alton B. Parker to oppose Theodore Roosevelt. He also served as county treasurer and county sheriff in Arizona before deciding to enter national politics. As sheriff, he developed a reputation for maintaining a quiet county without fanfare.

When Arizona was admitted to the Union in 1911, Carl Hayden ran for the House of Representatives on the Democratic ticket and was nominated over two opponents. In the general election, he was again successful, and he went to Washington as the first Congressman from Arizona.

In his long tenure in both Houses of Congress, Carl Hayden served under 10 Presidents, the first of whom was William Howard Taft, the last of whom was Lyndon Johnson. The first speech he made in Congress was in favor of Federal assistance in fighting forest fires—always a danger in the far West. The first bill he introduced authorized construction of a railroad to Fort Huachuca, Ariz.—an important and historic frontier cavalry post. That bill was symbolic of Carl Hayden's great desire for the improvement of the transportation system in his State. Throughout his career in Congress, he was a consistent advocate of Federal railroad and road-building projects. As the famous story goes, when asked by President Franklin

D. Roosevelt why he was always working for the construction of additional highways, Senator Hayden replied that Arizona had two things that people were willing to drive thousands of miles to see—the Grand Canyon and the Petrified Forest—and the people could not get to see them without roads.

During the New Deal period, Carl Hayden was chairman of the Senate committee responsible for Federal appropriations for highway construction. Under the initial Federal highway legislation, it was necessary for the States to match the Federal funds supplied for road construction. But Senator Hayden protested that the States needed additional Federal help, and that the program was bogging down and was likely to collapse. And so he urged the Federal Government to expand its role in this critical area. His views prevailed, to the advantage of the Federal program and the Nation. Whatever our views on this important issue of national transportation policy in 1972, we owe a great debt of gratitude to Carl Hayden for the extraordinary contribution he made to that policy during his brilliant career in Congress.

In every aspect of Government, Carl Hayden acted with the public interest firmly in mind. He was not only the dean of the Senate, but a great leader, a wise mentor, an outstanding representative of the people of Arizona, and a worthy Senator in every sense.

TRANSPORTATION CRISIS PREVENTION ACT

Mr. JORDAN of Idaho. Mr. President, the Transportation Crisis Prevention Act introduced by the junior Senator from Oregon (Mr. PACKWOOD) is absolutely essential legislation and I am pleased to be a cosponsor of it.

It has become quite clear in recent months that the Nation can no longer afford the luxury of labor-related work stoppages in the transportation industry. The west coast dock strike which was settled only after Congress enacted legistion to require compulsory arbitration of the dispute cost the country an estimated $2 billion, including a loss of about $1 billion in farm income. This devastating strike was preceded by a crippling rail strike in July of last year and many communities in my State are currently in virtual isolation because of a strike against Hughes Air West.

Despite these recurrent transportation disruptions which are so harmful to the public interest, Congress has failed to act on legislation to prevent them. Current methods for dealing with these situations are wholly inadequate. Each time we have acted in a haphazard, stopgap manner only after the crisis has developed.

It is time that we provide new means for dealing with emergency labor disputes in the transportation industry. Over 2 years ago President Nixon proposed legislation (S. 560) to provide the needed tools for dealing with transportation stoppages. I cosponsored that legislation because it provided an equitable and well-balanced approach to this difficult problem.

The legislation introduced by my distinguished colleague from Oregon (Mr. PACKWOOD) today is similar to the President's proposal, but it improves upon S. 560 in that it applies to regional as well as national transportation disputes. This is an important element because the strike or lockout which is confined to a specific geographic area can be just as destructive as a transportation stoppage that is national in scope. This is clearly illustrated by the west coast dock strike and the "regional" rail strike last July.

Mr. President, the need for favorable action on this legislation is clear. It is necessary to protect the public interest and I am hopeful that the Senate will respond accordingly.

SUDDEN INFANT DEATH

Mr. MONDALE. Mr. President, when I introduced last week for myself and 14 cosponsors, the joint resolution on sudden infant death, the final two paragraphs of my opening statement were mistakenly omitted in the printing of the CONGRESSIONAL RECORD.

In order to remedy that error, I would like to repeat, in its entirety, my statement.

I am pleased to introduce today with Mr. KENNEDY, Mr. BEALL, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MAGNUSON, Mr. NELSON, Mr. PACKWOOD, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WEICKER, and Mr. WILLIAMS a resolution which I hope will stimulate a major initiative to solve one of the most tragic and perplexing problems that threaten American families—crib death or sudden infant death syndrome.

Crib death takes the lives of an estimated 10,000 infants in this country each year. It is the leading cause of the death of infants between 1 month and 1 year old, striking 3 out of every 1,000 children in this country.

The families of the innocent children who die of SIDS suffer not only the heartbreak associated with the death of any loved one but also the anguish of accepting a death with no known cause and explaining it to their relatives, friends, and the public officials who question them about it.

On January 25, the Subcommittee on Children and Youth, of which I have the privilege to be chairman, held a hearing on SIDS. I was shocked and ashamed to learn that the Federal Government's concern about this major killer of infants is so low that experts cannot even agree on its incidence.

I listened to the stories of parents who had lost children to SIDS; who could not at first help blaming themselves for the death of their child; and who were even accused by public officials of negligence or criminal behavior. And then I was told by officials of HEW that currently only one medical research grant—in the amount of $46,258—is directed specifically to discovering the cause of SIDS.

The testimony at the hearing convinced me that we must marshal all the available resources of medical technology and expertise to seek the cause and cure of SIDS. We must actively encourage researchers to work in this field, and train qualified researchers if an adequate number is not available.

But medical research can be a slow and painstaking process, and meanwhile we know that thousands of families who have already lost children or who will lose children to SIDS will continue to suffer.

We also have an obligation to relieve their suffering by making available information about SIDS and by educating professionals who come in contact with SIDS cases about the needs of stricken families. Until the day when we can offer families the consolation of an explanation of why their child died, we must make a special effort to humanize the procedures surrounding the death.

For the purpose of encouraging and carrying on research, and in order to meet the needs of the families of SIDS victims, I plan to request an additional appropriation of $10 million in the budget of the Department of Health, Education, and Welfare.

In support of that appropriation request, I submit today a resolution which I hope spells out my concerns and those of the cosponsors about the need for immediate action on the problems raised by SIDS.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 206

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

SEC. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the top priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

SEC. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

SEC. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work toward the availability of autopsies of children who apparently die of sudden infant death syndrome and for prompt release of the results to their parents and to add sudden infant death syndrome to the International Classification of Disease.

SENATOR CARL T. HAYDEN

Mr. ALLEN. Mr. President, it was not my privilege to serve in the Senate with Carl Trumbull Hayden. The circum-

stances were such that I began my first term in the Senate on the date of his retirement on January 3, 1969, shortly before his 91st birthday. Nevertheless, Carl Hayden was a legendary figure known and respected in Alabama, and his many friends in the Senate left no room for doubt that Carl Hayden was a most admirable man with an enviable record of public service and significant accomplishments.

It is difficult for one to grasp the significance of an unbroken span of public service covering a period of 61 years. This record is even more significant when it is considered that he was elected to 8 successive terms in the House of Representatives and 7 successive terms in the U.S. Senate, and that his service in the Senate was crowned with the honor of serving as President pro tempore of the Senate from January 1957 to January 3, 1969.

This statement of service does not suggest the human factor behind his steady climb to recognition and fame, which began when Carl Hayden first set out on a career of public service in 1902 as a member of the Tempe, Ariz., Town Council. In 1904 he was elected delegate to the Democratic National Convention and served as treasurer of Maricopa County from 1904 to 1906, and as sheriff of the county from 1907 to February 19, 1912, which office he vacated by reason of his election to and the assumption of duties in the 62d Congress.

But neither does a mere statement of his service nor a recitation of the beginnings of his remarkable political career suggest the strength of character and admirable qualities of the man that evoked the confidence and affection of the countless friends and constituents which accounted for his continuance in office.

I believe that a part of Carl Hayden's storied success is attributable to his philosophy of life—one particularly characteristic of that hearty brand of men who first settled and tamed our western frontier. It is known that he truly loved the Southwest and the people of Arizona whom he so ably represented, and that he believed in and lived by the pioneer virtues of individuality and self-reliance. I am convinced, as was he, that we need today a resurgence of the pioneer spirit of self-confidence which leads to the conviction that each man is captain of his soul and the master of his fate.

It was such a spirit and such a philosophy that contributed so much to the successful transformation of the West from frontier to modern society.

Carl Hayden did more than subscribe to and live by this philosophy. He had also the vision to see the near unlimited potential in the Southwest which inspired him to do more than perhaps any other individual to help shape and cultivate the potential of that section of our Nation. It is most fitting that he lived to see his vision fulfilled.

In peace and in war, Carl Hayden served his State and Nation with selfless devotion. The imprint of his achievements are etched on the landscape of the Southwest in the form of highways, dams, irrigation and reclamation projects, military installations, railroads, parks, and recreational developments. Just prior to Carl Hayden's retirement, he was to realize the fulfillment of a long cherished dream with the passage of the Lower Colorado River Basin Act. This dream had meant very much to Carl Hayden and I am glad to say that his public career ended with success just as it began in 1902.

I sincerely wish that I had the privilege of knowing Carl Hayden as a friend and colleague in the Senate. That wish being denied, I am content to subscribe to his philosophy and strive to emulate the splendid example he set of devoted service to his State and Nation.

On behalf of the people of Alabama, I salute the memory of Carl Trumbull Hayden.

THE NEED FOR ADVISORY COMMITTEE LEGISLATION

Mr. ROTH. Mr. President, on May 26 of last year, I introduced S. 1964, the Federal Advisory Committee Standards Act. This bill, introduced in the House as H.R. 4383 by Representative MONAGAN of Connecticut, resulted from hearings which took place before the House Government Operations Subcommittee on Special Studies during the spring of 1970. Extensive hearings have also been held in the Subcommittee on Intergovernmental Relations of the Senate Government Operations Committee on similar legislation during 1970 and 1971.

The intent of S. 1964, S. 2064 offered by the Senator from Illinois (Mr. PERCY) and S. 1637 introduced by the Senator from Montana (Mr. METCALF) is to establish a system governing the creation and operation of advisory committees throughout the Federal Government. This need results from the proliferation of advisory and interagency advisory committees which has accompanied the increasing complexity of governmental decisionmaking. It is estimated that at least 2,600, and possibly as many as 3,200, such committees exist in the Federal Establishment today.

The executive branch has been taken note of the multiplication of advisory committees. Basic guidelines for their establishment have been provided by the Office of Management and Budget and its predecessor, the Bureau of the Budget, through Circular A–63–1964, and revisions of A–63 in 1965. During 1971, OMB Director Shultz issued a memorandum defining management oversight for Presidential advisory committees. OMB was further involved during 1971 in the preparation of a new circular aimed at bringing more order to the operation of Federal advisory committees.

I am impressed by the draft of this still unpromulgated circular. Further, I admit that the Executive has primary responsibility to solve this essentially administrative problem. Still I feel that we in Congress should provide general mandates for reform when the Executive has been slow to act. This should not, of course, preclude leaving sufficient administrative flexibility to the President and his appointees.

The responsible committees and their staffs in both Houses are currently attempting to put together legislation for floor action. At this time, I would like to briefly outline the form which I hope this legislation will take.

First and most important, it is essential that we write into any advisory committee bill the automatic termination of a committee's existence after 2 years, unless it is continued by the President or sponsoring agency. This proviso will force the executive branch to continuously review the need for various advisory committees, thus slowing down the proliferation of unneeded and overlapping bodies.

Second, I urge that the legislation stress the improvement of the ability of OMB and agency heads to effectively manage advisory committees reporting to the President, Congress, or various Federal agencies. In order to fulfill its responsibilities, OMB should allot adequate staff resources for the purpose of committee management. It might also be constructive for OMB to direct that each advisory committee file a charter describing its functions, membership, period of authorization, operating costs, agency relationships, et cetera, with the head of its sponsoring agency.

Further, I would urge that the executive branch be required to assign to the Domestic Council or some other agency the task of evaluating and, where appropriate, taking action on the recommendations of Presidential advisory committees. We must make a more serious effort to make sure that we benefit as much as possible from committee reports, which, after all, are expensive in terms of manpower and money.

The emphasis should be on the control of committees which include members who are not officers or employees of the Federal Government. Additionally, it would be advisable to limit the role of advisory committees with public members to wholly advisory functions unless otherwise stipulated by legislation or Presidential directive.

Third, it is important, I feel, for Congress to take part in reviewing the creation and operation of advisory committees. This can be done through assigning to the standing committees of Congress an oversight responsibility for committees falling within the jurisdiction of each. The President should also provide Congress with an annual report containing information on the status of all advisory committees—including information on funding, authorizations, terminations, membership, functions, reporting, and dates of meetings.

Next, in putting together a bill for the management of advisory committee affairs the Congress should take care to protect the openness of advisory committee proceedings to public scrutiny. Requirements for public notice of meetings, open meetings within the reasonable limits of available facilities, public minutes, the availability of records to the Comptroller General, and the deposit of reports in the Library of Congress would seem sufficient to accomplish this end.

The President should be allowed to specifically exclude committee meetings or records from these provisions on the grounds of national security, personal

privacy, or commercial privacy. While I would not advocate that citizens who serve on Government advisory committees be required to report their financial dealings in detail, I can see value in the disclosure of any relationships, economics or otherwise, which might raise questions of conflict of interest.

Finally, congressional committees and the OMB in their oversight of advisory bodies with public members should generally acquire that membership be fairly balanced in terms of the tasks of a particular committee. To my mind, it would be neither constructive nor effective to direct that a definite percentage of membership be representative of the public or the consumer.

The purpose of these remarks has been to urge both Houses of Congress to move expeditiously in acting on legislation to improve the management of Federal advisory committees. It is my hope that the result will not only be an organizational improvement, but that it will protect the right of the people, their representatives in Congress, and the press to know how public decisions are made.

AMERICA'S HEALTH CARE CRISIS—THE DEATH OF ELIZABETH MEINDERS

Mr. KENNEDY. Mr. President, an eloquent article published in the Washington Post of February 6 points out a vivid example of the callousness and inefficiency often faced by those who must use a hospital bed in America today. Mr. Gary Potter tells of the tragic circumstances he and his wife encountered when it was necessary for his wife's grandmother, Mrs. Elizabeth Meinders, to seek medical treatment.

It has long been understood in our society that those who are poor cannot obtain decent medical care, but we are also beginning to understand that frequently, even those who can afford such care are unable to obtain it. The fact that Mrs. Meinders was given less than adequate care, in spite of the fact that her granddaughter could afford to pay whatever was necessary, is a good example of one of the most serious aspects of our crisis in health care—the crisis in quality. It demonstrates that the problem of health care is more than just a problem of providing people with the money to pay for care. It is also a problem of insuring that decent care is provided.

Mr. President, the experiences related in this article reveal much about the inadequacies of our modern system of medicine. For too long, we have tolerated these inadequacies because as consumers and citizens, we ignore the basic malfunctions within the system until we are confronted with them from the wrong side of a hospital bed.

Mr. Potter's article focuses attention on the widening gap between the need for good medical service and the care that is available. I believe that all Senators will find this article to be of interest. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sunday, Feb. 6, 1972]

THE DEATH OF ELIZABETH MEINDERS: 1878–1971

(By Gary Potter)

The writer is editor of Rough Beast, a monthly non-ideological journal of ideas and political and social commentary, from which the following is excerpted.

Last Nov. 6 a 5-megaton nuclear warhead was exploded at Amchitka Island, Alaska. That same day, my wife's grandmother was killed in a nursing home in Iowa. Opponents of the Amchitka test were, generally speaking, persons who believe that the number of technical interventions made in the environment during recent times has reached such a dangerous level that irreparable harm is about to be done to the world. I think some of them must have expected dramatic consequences from the Amchitka test; a few might actually have hoped for them. But the earth did not crack. California did not sink. There were no tidal waves.

I think the expected signals can be read in the death of Elizabeth Meinders.

Mrs. Meinders was born in Iowa and lived there her whole life. The Iowa and the United States where she was born were rather different from the state and nation of today. When Mrs. Meinders was born, Rutherford B. Hayes was President of the United States (of which there were then 38); Queen Victoria would reign for two more decades over a vast and mighty empire; the last Russian tsar, still a boy of 10, was years away from ascending his throne; Kaiser Wilhelm II, the last German emperor, was not yet even crown prince. Since 1878, a very great deal was changed in the world.

Mrs. Meinders was fully aware of the changes. Until the onset of the troubles which led to her death, she read a newspaper every day. Her view of affairs was remarkably detached. It was not that she was unresponsive to the world; the world simply no longer shocked her.

What great issue or event agitating us in recent days had she not already had occasion to consider? The war? Already a lady of 40 at the end of the first World War, Mrs. Meinders had witnessed six of seven foreign wars waged by the United States. Racial conflict? She could remember being scooped up and bundled into the house by her mother when some Indians suddenly appeared nearby—Little Big Horn had happened only a couple of years before, Wounded Knee was years in the future. Presidential assassination? Could the one in 1963 seem as momentous to her as it did to many when she could personally recall two of the three others in our history?

Born as she was before the advent of electric lighting, the automobile, the telephone, radio, the newer prodigies of science and technology did not impress her overmuch. I once asked her what she thought of seeing men on the moon, live, in color. "Oh," she said, "I suppose it's all right." Her many years had clearly made her extremely tolerant.

Intact as were her mental and spiritual faculties, the sheer weight of her 90-plus years did bear on her body. Though far from being bedridden (merely two summers ago she was capable of the long car trip from Iowa to Washington), she did have difficulty at times walking and she recently made frequent use of a wheelchair. If you asked her how she felt, she would reply, "I'm all right, but I used to be able to run like a deer." There was wistfulness in the remark, and resignation, but also a subdued note of anger, as if she felt she had been betrayed—by her own body—and who could doubt her word? Yet there was no one still living who remembered her running.

From the fact that so many she'd known and loved had already passed on and from her religious devotion was derived another characteristic: prudence. She deemed it prudent to devote much of her energy these last years to preparing for the inevitable. This, also, must have accounted for her apparent detachment. She was preparing to put behind her the things of this world; she was detaching herself from them. In her 93 years she'd seen a great deal of death and she must have acquired an understanding of it. It surely seemed that death, no more than anything else, would not surprise her. Yet it did, it did.

Dying was once something accomplished at home. That was the case for even the poorest of men. In 1878, say, there simply was no place else to die, no more than there was another place, besides the open field, to give birth. Also, dying being part of life, home seemed a suitable place to do it since that is where one had done the rest of one's living. Unless he were caught fatally by hazard far from home, every man could expect to die there—in the bosom of the family, as the expression went. Loved ones actually held your hand, they wiped your brow. You were going away; they tried to ease it for you.

I've said Mrs. Meinders was as aware of the world from which she died as the one into which she was born, but she must have expected, must have prayed, that her death would be the sort she knew best and which she had schooled herself to accept, if perhaps with ever so slightly rebellious a spirit, as she accepted the infirmity of an aged body. By rights, such a death ought to have been hers.

Like all really wise persons, Mrs. Meinders had made it a lifelong policy to avoid doctors, except in direst need, and to stay completely away from hospitals or any other institution purporting to care for the unwell or infirm. She was not alone in her feeling about such places. Her daughter, my mother-in-law, had her in her home, as she had for a number of years, when her final difficulties began in August. That is, unlike many others who, by virtue merely of years, find themselves in "nursing" homes at a certain point in their lives. Mrs. Meinders was not in one. Inasmuch as she required no "nursing," was not unwell, never truly infirm, why should she have been? Also unlike many others, of course, she had a daughter who was willing to have her at home and to see after her wants, which were always limited.

In August, Mrs. Meinders complained of some pains. My wife, who was visiting her mother and grandmother at the time, told me on the phone that the family doctor was away, that others had been consulted, and they recommended that Mrs. Meinders be taken to a local hospital for an examination, one more thorough than could be done at home. There should have been nothing alarming in the idea of hospitalization for no more reason than a thorough physical. Surely the reason for Grandma's pain could be more easily and accurately discovered in a hospital than at home. Yet Virginia (my wife) and I were both uneasy at the idea. She was herself less than enthusiastic.

As Virginia and her mother left her on the first evening of her first hospital stay, my mother-in-law said, "Well, we're going."

"And leave me in the presence of mine enemies?" said Mrs. Meinders. It was a line from the best known, and Mrs. Meinders' favorite, of all the Psalms.

She was in the place for merely a few days. Because Virginia and her mother thought they discerned a casualness, even a certain callousness, in the institution's treatment of Mrs. Meinders, they were quite

pleased when the doctors told them there was no need for worry, Grandma could go back home.

The doctors at the hospital had failed to detect a massive internal abscess which burst in the evening soon after Grandma's return. I was later appalled to learn that small Iowa cities of 30,000 population are apparently no different than New York or Washington on one score: Despite all the pleas of Virginia and my mother-in-law, no doctor would come to the house. All through the night the two women carried on as best they could. The blood and matter was coming in prodigious quanties. Every convenient receptacle—basins, bowls, pans, even a kitty litter box—was put to use; Veronica, our 15-month-old daughter, upset by the turmoil, began to cry but could not be coped with—there was no time even to empty the pans as Virginia and her mother worked in tandem; the gory containers overflowed the bathroom and kitchen floors, had to be set out in the garage.

Finally, at dawn, a doctor agreed to a house call. This gentleman's professional contribution to the situation, seeing the pans spread before him on the garage floor: "That's impossible. If she lost that much blood she'd be dead."

She was in fact so weakened that the doctor would not advise what doctors today always automatically advise, what the doctors a few days before advised: he would not recommend her being moved to the hospital, not then.

Yet, weak as she was, she was also strong. Anyone, it seems when you consider it, must be marvelously strong simply to live 93 years. It was her strength that undid her. Why couldn't the end have been that night? It would have been far better. There were moments when Grandma actually cried out for it to be. She was too strong, however. Her God had made her so strong she was yet to endure a death unlike any she had ever expected.

It was necessary, however, finally to readmit her to the hospital.

It surely was necessary, wasn't it? The abscess had to be completely cleaned, it had to be healed. The doctors wouldn't treat Mrs. Meinders at home, no more than they'd do anything else there, even examine her.

It was in the hospital that I last saw her. She had been there, in bed, for two or three weeks. I was deeply distressed after seeing her. Never had I seen her so enervated, so listless. Never before had I seen her listless, period. And her eyes! A 93-year-old junkie, was that possible?

My wife explained that the nurses gave Mrs. Meinders drugs, "to keep her quiet."

"Quiet! How noisy can a bedridden 93-year-old woman be?"

"No, it's just that if she asks for anything when it's not scheduled it disturbs the routine. They're busy."

"Oh, c'mon. What? A glass of water?"

"I know. But what can we do?"

What indeed?

The members of my wife's family are not numerous. For several generations the family's children have been born at 30-year intervals, rather than the common 20. Thus, Mrs. Meinders, though already past 90, had no great-grandchildren until the birth of Veronica, my daughter. The two of them, the old lady and the infant girl, had a close and warm relationship.

In the morning after that first crisis, after the doctor had left, before anyone could stop her, Veronica climbed onto Mrs. Meinders' bed. She grabbed a crumpled Kleenex lying there and with it wiped some sweat from her great-grandmother's forehead. My wife has told me that it wasn't until days later that she saw Veronica's gesture in the light of the act once performed by her namesake.

During those days, as Mrs. Meinders recovered something of herself, there were countless games of peek-a-boo, the child standing at the foot of the bed, Mrs. Meinders frequently racked by pain nobody nearly a century old is meant to bear. How did she bear hers? Her heart, her lungs, all her organs were extraordinary fit, we were told.

Her low morale was not the only thing troubling about Mrs. Meinders' condition. We noted a vicious bruise, actually an open wound, on one elbow (an old person's skin can be exceedingly tender). There were similar bruises elsewhere on her body. We inquired of the nurses how the bruises had been inflicted. Blithely, we were told she bruised herself trying to get out of bed. The bed in question had high railings all around it. An old lady who's lately needed a wheelchair to get around tried by herself, in a drugged state, to climb over those barriers? That's what we asked. We were told: Yes!

Mrs. Meinders was clearly not popular with the staff. She was a nuisance; so it seemed. But as Virginia asked, what could we do? We didn't want to take her home simply to die. We wanted her to live comfortably and well. For that she needed healing. The alleged healers said the only place for the healing was here, in the hospital.

Mrs. Meinders was most of all a nuisance about the catheter. My mother-in-law, who'd cared for her for years, knew she was not, had never been, incontinent, yet a catheter had been inserted in her uretha. This did spare the nurses having to attend to a bedpan but it created another problem. Mrs. Meinders was evidently offended by the plastic tubing, especially inserted as it was in a part of her body she probably regarded as not merely private but inviolate (nothing could more accurately reflect her 19th-century upbringing). When she was sufficiently undrugged, she pulled the catheter out. Not once. At least three times. Incredible. I flinched whenever I imagined the pain her action must have caused. I don't know if the nurses considered the pain, but they were furious. When Virginia and I discovered the catheter removed on one of our visits and foolishly reported it ("Please don't make trouble for them, Grandma. You'll only make them mad.") we were banished from the room, saw nurses, faces rigid with anger, rush into it. We heard Grandma scream as they jammed the damned thing back in, but the first nurse out the door met our gaze with equanimity, even smiling. What to do? We felt trapped.

The last time I saw my wife's grandmother alive was with my mother-in-law. When we reached the floor, we found no one at the floor desk. We went straight to Grandma's room. She wasn't there. Wondering where to look, we heard Grandma's voice from the room down the corridor where sitz baths were given. My mother-in-law pulled me back as I was about to step through the door; she wanted to hear what was being said.

Grandma was saying, "Why can't I talk?"

"Because I want to read the paper," the nurse replied.

When we did go into the room, I saw the nurses's paper was turned to the funnies page.

I returned to Washington, leaving Virginia with her family. Mrs. Meinders was in the hospital a while longer. The hospital then asked that she be removed.

I couldn't believe it when Virginia told it to me on the phone.

There had been a letter to the hospital from Medicare, it seemed. Formerly, hospitals might keep patients indefinitely, as long as necessary to get the job done, the job that needed doing; that's why the patient was there. Today, the Medicare "benefits" are exhausted, and that's it. Out. Unless maybe you're actually dying. Ginny quoted a doctor at the hospital, speaking of Mrs. Meinders' case: "Hopefully, we'd thought that she'd have slipped away by now." Those were his exact words. Since she hadn't "slipped away" as scheduled by Medicare, she'd have to leave. I was speechless.

Even as Mrs. Meinders was expelled from the hospital the doctors expressed the view that if she were taken home she'd require the attention there of two full-time nurses. That was out of the question. Accordingly, Virginia's mother and aunt surveyed most of the nursing homes in the area and finally settled on one; it was going to cost the family $1,000 a month. As it happened, Mrs. Meinders was there but a few weeks.

After helping her mother and aunt install Mrs. Meinders in the place, Virginia came home to Washington. She told me all about the home. It was clean and bright, the newest built and supposedly best equipped home in the vicinity, but she'd found the same routine use of drugs as at the hospital. Every evening everyone got his stupor pill; undisturbed quiet would reign for the rest of the night; no one would be any trouble for anyone else, particularly the staff (in addition to professional staff there was considerable volunteer help—Girl Scouts earning badge points, that sort of thing).

I was struck by one detail; persons feeling badly often must be encouraged to eat; that is as true of old persons as anyone else. At this "nursing" home where Mrs. Meinders now lived, no one did anything to encourage eating; food, I gathered, was simply left with the inmates; there it is if you want it. The result was that the relatives or friends of many inmates, including my mother-in-law, visited the establishment twice a day to feed the inmates. A thousand dollars doesn't buy much anymore, I reflected.

Three weeks after Virginia got home the phone rang at 3 o'clock one morning. It was Virginia's mother. Grandma had been killed. She was scalded to death in the bathtub. In a sitz bath. I wondered what nurse this time had been busy reading the funnies.

No one had actually been reading the paper. It might as well have been the case, however. Beyond the fact that someone had been grossly negligent we shall perhaps never know exactly what happened. Either someone had simply put Grandma into water already scalding hot and abandoned her despite her protests, or she was left unattended while a malfunctioning electrical device heated up the water. As chance had it, both my mother-in-law and her sister arrived at the "nursing" home, for a visit, within minutes of the event. The place was in turmoil. In the moment's excitement, one nurse was extremely candid. She blurted: "We heard her screaming but we were all too busy to go in." When the remark was reported to us, Virginia and I recollected the scream we'd heard in the hospital corridor, and the satisfied look of the nurse afterwards.

Grandma lingered, in agony, for twelve hours. She was back in one of those beds with the high metal barriers; both her daughters were with her. She complained very little about the pain she was feeling, but it had to be great. Her boiled flesh had turned black and was falling away. A curious thing happened in those hours. Though Grandma was Iowa-born, her first language was German, until the age of 8. No one living had ever heard her speak it. Now at the end, it was suddenly the language in which she prayed. Then, her very last words were: "Give me a kiss." Neither of her daughters could reach over the barriers of the hospital bed to give it. That was all.

When we buried Grandma her pastor said that everything he knew about her indicated that she was now with God. It is hardly possible to believe otherwise. All signs, her devotion and piety, her prudence, indicated that she understood her very long life to be a gift from God, which He meant her to use in preparing to meet Him. Not everyone receives such a gift. Consider the case of a

young man wiped out driving to work. Yet Grandma' death was more nearly akin to the young man's than it surely was to that of, say, her grandfather. But Grandma's case was not unique, you know that. That most of us will have her institutional kind of dying, or the young man's violent death, and almost no one of us the older kind of demise, an 1878 death—there is the material for meditation.

Death has always been the ultimate correction of men's lives: it is the wages of sin; but unless all accounts of past dyings have been falsified, it does seem that death, the process of having one's sins corrected, was once easier to bear. It seems to have involved some tears and sincere repentance, and that was about it. Did its relative ease correspond to the sins it corrected?

That young man driving to work, is he aware his life is in God's hands? Chances are that if he has any thoughts at all about his life being in anyone's hands he thinks it is in those of the General Motors engineers.

And if so wretched a death as Grandma's can be visited even on that dear, amiable, God-fearing lady, what chance have the rest of us to avoid her fate, the young man's, or worse? Tears and repentance, then, sweet death? No, for most of us it's going to be the freeway crackup, or the lonely, bitter death of a terminal ward—or the scalding sitz bath.

Why should God, capable as He is of infinite subtlety, arrange for the top of the world to blow off at Amchitka? He can arrange for every man a personal Amchitka. I believe that is possibly just what He's doing. I'm suggesting that the American way of death may in fact be His punishment for our way of life. If you don't believe in Him, let's just say that it's nature fighting back.

CATTLE PRICES, MEAT PRICES, AND MEAT IMPORTS

Mr. CURTIS. Mr. President, I am very much indebted to Mr. Ray Kissinger for some reliable facts concerning cattle prices and meat prices. Mr. Kissinger knows whereof he speaks because he is very knowledgeable and he has had years of experience as a cattle feeder.

Mr. Kissinger went to the Hastings, Nebr., Daily Tribune and looked up the prices of cattle on January 9, 1952. He also looked up and read in the same issue the ads of a supermarket concerning the prices they were charging for meat.

Then Mr. Kissinger secured the same prices for February 16, 1972.

The table prepared by Mr. Kissinger is most striking. It shows that the prices for cattle that farmers and feeders are receiving at the present time are in the range of what they were 20 years ago. Who else in America would work for the wages he or she received 20 years ago? It is about time that government policies were directed toward further increasing farm income.

Some misguided persons have suggested that the import quotas on meat ought to be increased. They are advocating greater imports of meat for our country. Such a move would be indefensible.

Increased meat imports would be damaging not only to ranchers and cattle feeders, but also to grain farmers. Every time a pound of meat is placed on the table it means that there has been a market for 16 or 17 pounds of grain or perhaps more.

The taxpayers and the general public would be damaged if our meat imports are increased. Our farm program has many problems. We have surpluses, particularly in the grains. Farmers are required to cut back their acreages. It costs considerable money to run the farm program. Now is no time to move a greater portion of our agricultural production out of the United States and into a foreign country. That is what we do when we increase meat imports.

We also owe it to the consumers to see to it that they have a wholesome product. In truth and in fact, imported meat does not meet the high standards of sanitation and inspection which are met by our domestic industry. The foreign countries who are meddling in our domestic affairs and urging an increased quota of meat imports ought to refrain from doing so, because they are wrong in their contention.

Mr. President, the table prepared by Mr. Kissinger eloquently speaks for itself. I ask unanimous consent to that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Cattle and retail meat prices

Source: Hastings Tribune, Hastings, Nebr.

[Price Per Hundredweight]

JANUARY 9, 1952

Prime cattle—$39
Most choice to prime—$35.50–$38

FEBRUARY 16, 1972

Prime cattle—$38
Most choice to prime—$34–$37

Retail prices from same supermarket in years quoted.

JANUARY 9, 1952

Swiss steak, .85
Hamburger, .49
Rib steak, .79
Beef stew, .79
Sirloin steak, .85
Round steak, .98
Beef roast, .65
Prime rib, .69

FEBRUARY 16, 1972

Swiss steak, $1.69
Hamburger, $.98–$1.19
Rib steak, $1.59
Beef stew, .98
Sirloin steak, $1.63
Round steak, $1.38
Beef roast, $1.19
Prime rib, $1.29

STRICT RACIAL BALANCE IN PUBLIC SCHOOLS

Mr. TALMADGE. Mr. President, despite long and loud disclaimers to the contrary, the wisdom of efforts to achieve strict racial balance in our public schools is being questioned by voices outside the South. A comment published in the New York Times of February 11, 1972, dramatically underscores this fact.

It is indeed interesting to note that this newspaper, which has long been the bible of the most adamant proponents of forced busing, winces, and "waffles" when confronted with the suggestion that desegregation guidelines and standards already implemented in the schools of the South be applied to schools in New York City and New York State.

Mr. President, the double standard is alive and flourishing in the editorial offices of the Times.

I think this editorial deserves the attention of all Senators. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DUBIOUS INTEGRATION PLAN . . .

The Fleischmann Commission has properly given high priority to the racial integration of the state's public schools, and it has clearly described the disturbing trend of increasing segregation as the school population of the major cities turns predominantly black and Puerto Rican.

It is unfortunate, however, that the commission has proposed actions likely to create a maximum of conflict and in any case are quite unrealistic.

The key to the proposed approach is to create in every school a strict ethnic balance that approximates the racial pattern of total pupil population. In New York City, where the white enrollment now constitutes less than 40 per cent, this would mean that a white minority of roughly that proportion would have to be maintained in every school. Such a redistribution could be accomplished only by either transporting large numbers of white children into the presently predominantly black schools or by phasing out all schools in such areas. Both approaches would run into massive opposition on the part of black as well as white parents.

Equally questionable is the commission's proposal to bring about an ethnic balance among each system's teachers and administrators to reflect the racial profile of the total population. We have long urged effective measures to train and recruit greater numbers of educators among the minorities, along with the elimination of licensing procedures which result in racial discrimination. But to impose a relatively rigid ethnic balance is to mandate a quota system with its inherently discriminatory and divisive consequences.

Although the report thus seems flawed in important respects, it nevertheless contains many worthwhile recommendations, such as the avoidance of rigid ability-grouping within schools and stress on integrated faculties and an integrated curriculum, all of which are indispensable in the battle against racial isolation. Especially pertinent is the commission's insistence on adequate Federal and state financing of desegregation efforts, at a time when Congress, in a senseless backlash maneuver, is trying to prohibit the expenditure of such funds for busing. Even worse, Albany has already wiped out its own meager integration funding.

Perhaps the commission's most appealing suggestion is the construction of special regional schools on the cities' outskirts to give black and white parents a genuine opportunity to send their children to schools which combine educational innovation with full integration.

TRIBUTE TO CARL T. HAYDEN

Mr. BROOKE. Mr. President, one of the great privileges for a junior Member of the United States Senate is the opportunity to serve with some of the men and women who have personally shaped our country's destiny and participated in its great and glorious history.

Carl T. Hayden was such a man. Born and raised in the western frontier, he retained and used to the Nation's advantage throughout his life those qualities of independence, flexibility and superb judgment which mark a man of action and integrity.

When I first met Carl Hayden, he had already served in the Congress of the

United States for 55 years, 40 of those years in the United States Senate. His accomplishments in that time are legion. His concern for the welfare of the American people, his dedication to the cause of better living standards and equal opportunities, his commitment to a strong and constructive role for America in the world, have helped to shape this Nation and make us strong.

It is fitting that Carl Hayden's colleagues and countrymen should join in tribute and lasting remembrance to a man whose life has made such a difference in the life of our land.

ADDRESS BY LAWRENCE F. O'BRIEN TO NEW MEXICO LEGISLATURE

Mr. ANDERSON. Mr. President, on February 15, 1972, Mr. Lawrence F. O'Brien, chairman of the Democratic National Committee, addressed a joint session of the New Mexico State Senate and House of Representatives in Santa Fe, N. Mex. We were glad to have Mr. O'Brien address the joint session of our legislature, and I believe that his remarks will be of interest to other Members of the Senate. Therefore, I ask unanimous consent that Mr. O'Brien's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY DEMOCRATIC NATIONAL CHAIRMAN LAWRENCE F. O'BRIEN TO A JOINT SESSION OF THE NEW MEXICO SENATE AND HOUSE OF REPRESENTATIVES, HOUSE CHAMBERS, SANTA FE, N. MEX.

I must confess that I had one difficult moment on receiving this invitation from Governor King. For some reason, he thought it necessary to tell Larry O'Brien that the address was to be "non-partisan." And I had to search high and low for someone on my staff at the Democratic National Committee who could tell me what that word means.

But now I don't feel so bad about my ignorance. For I found out that Bruce King had to look up the word before sending me that telegram.

And so, my fellow Republicans—and you Democrats, too—I shall try my hardest to abide by the Governor's request.

Actually, it's not so difficult. There is much, in this fateful political year for America, that we must discuss together not as Republicans and Democrats, but as activists who have chosen to dedicate our lives to politics and public service.

At the end of 1971, I attempted to take an objective view of the state of the Democratic Party and of the two-party system on the eve of this election year.

I said at the time that I hoped it was a candid and forthright analysis of presidential politics, 1972—but that I hoped it would be something more. And that "something more" is what I want to share with you in my brief message today.

That is my overriding concern for the health, even the survival, of the American two-party system as it has existed for the past century and one-third.

Since assuming the national chairmanship of one of the two major parties in March 1970, I have had to face directly this manifold challenge to our democratic system of government: the alienation of millions of voters; a creeping lethargy that afflicts our youngest voters and those who have the most to gain from active political participation; the impact of television; the corrosive effect of political fundraising—and, I'm sorry to say, the rising tide of distrust of government and public officials of all persuasions. And I have become increasingly concerned for the future of this great nation.

The challenge is yours and mine—and it is immediate.

For it is with us once again—another year of reckoning—the quadrennial test of man and system.

Yes, it is 1972, and the determination of America's destiny is before us once more.

Now, it occurs to me, as it may to many of you, that there probably has never been an election year when it was not said that the future of America depended on the outcome . . . that America's destiny truly lay, in whatever year it happened to be, in the decision of millions of citizens as they privately registered their choice for President of the United States.

But in the year of 1972, I submit that our destiny as a nation is on the line—perhaps as it has not been since the Civil War.

We as a nation have survived many crises, many critical tests, since that dark period in the mid-19th Century. But now, as a democracy approaching its 200th year, we could well be facing our greatest test.

Yes, there is far more than an election at stake in 1972. The American political system itself is on trial.

For I am convinced that millions of Americans have become dubious to the point of despondency at the capacity of this system ever again to produce strong, compassionate, and trustworthy leaders. The public opinion polls will tell you: "Politicians never keep their word."

Events of recent months and years have spawned a grim cynicism among our fellow citizens toward the most basic tenets of our form of government. Many—and perhaps most—simply *don't believe* that the people govern themselves . . . that their voices and needs are heard by their elected leaders . . . that their's is indeed a government not of men, but of laws.

We are, in a sense, asked this year to evaluate the American experience—all of it, since the 17th Century—and to judge whether this unique experience has any relevancy to the extraordinary demands and challenges of contemporary America.

For all of our past glories, we cannot evade the question: has the American system outlived its usefulness? Should it be discarded?

There, my friends, is the question being posed to both major political parties today. And that challenge is the reason I am involved as national chairman of one of them.

You may be forgiven if you happen to believe my purpose in life is solely to win elections; it's a reputation that's hard to shed.

So let me indulge in what might seem, to some of my associates, to be heresy. I simply have no interest—none whatever—in merely dislodging an incumbent President of the opposite party from the White House if the alternative is just to be more of the same.

Yes, I want the Democratic Party to regain the presidency—but only if the change produces a leader who will lead; who will command the trust and confidence of the American people, and who will offer a solid, tangible, and positive alternative that will restore the faith of Americans in their government.

It is a time for greatness, for vision, for boldness—in the White House, in the Congress, and in the legislative and executive chambers of states like New Mexico. And yet it is a time for steady, reasoned leadership that unites rather than divides, that does not seek to startle the people with sudden, ill-thought-out shiftings of course.

Above all, in seeking to regain the confidence of the people in their elected representatives and leaders, we must be certain pects politicians to keep their promises anyway."

A distinguished political analyst recently wrote of this syndrome:

"Some politicians . . . have bespoken the glory of the dream, convinced obviously that this was what many Americans wanted to hear. The corollary, inevitably, was that bad news, limited promises, ordinary visions could not be offered.

"As a people, we should by now have seen the folly in this course. Dreams, like everything else, have their price. Things gained too easily at the outset cost much more later. America's resources are running thin. The social burdens of pollution and the ravaged land are mounting. . .

"Our leaders are supposed to be our wise counselors. If they are over-promisers, as some of them surely are, they are cruel deceivers. They must know better. On the threshold of 1972, America is still rich in the substance of good living. Its people have great qualities. But there needs to be less fanciful dreaming and more hard effort, more payment on the high price of great dreams."

And so we shall, as representatives of the two major parties, have our differences this year. For there is a significant difference in philosophy between the two parties, in their views on the relationship of government to the people, and in their approach to the governing process.

It is easy to be misled by the middle ground. There *is* an area of overlap. But it is a deliberate overlap—and, I believe, a healthy one. Leaders of the two major parties consciously must strive to frame policies that appeal to and benefit the greatest number of persons.

Any other approach—any attempt to snub or exclude any segment of the population, to invoke rule by an extremist minority—is doomed to failure. Americans want to be consulted; they never have and they never will tolerate a government in which they have no say.

A philosopher once said there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than the introduction of a new order of things.

But I think all of us will agree that the 1970s cry out for a new order of things in American society.

So, while I recognize the crisis of confidence that has befallen our political system in America, I remain confident that we can meet it and prove once again the greatness, the durability, and the honor of the finest political system man has ever devised.

For I believe the American people know in their hearts what their political leaders seem too seldom to realize: that we must always, in the final analysis, rely on human decency, human intelligence, and human will—always allowing for human fallibility.

The people, in 1972, want desperately to know where this nation is going—and where it is taking them, as individual human beings. And now it is up to us to provide the answers and lead the way.

This is my commitment—and I know it will continue to be yours.

SENATOR CARL HAYDEN

Mr. FULBRIGHT. Mr. President, it is with sadness that I join my colleagues in paying respect and tribute to our former colleague, Senator Carl Hayden.

Those of us who had the privilege of being associated with Senator Hayden remember him as a dedicated public servant. He served his State in Congress for over 50 years, longer than any other man in history. The growth and development of Arizona is a monument to his effectiveness.

that we do not promise too much on the cynical assumption that "nobody really ex-

Yet, his achievements were not limited to helping his home State. Among his accomplishments was the legislation authorizing the Farmers Home Administration which has been so important in revitalizing our Nation's rural areas.

As chairman for 14 years of the Senate Appropriations Committee, Carl Hayden became one of the most influential men in the Congress. He worked hard at his job and he did it well.

A quiet, unpretentious man, Senator Hayden's advise to his colleagues was "Keep quiet, be a workhorse, and speak only when you have the facts." Carl Hayden practiced what he preached.

PUBLIC SCHOOL DESEGREGATION

Mr. MONDALE. Mr. President, I invite the attention of the Senate to a courageous article entitled "Integration is Working," written by Mr. Richard A. Pettigrew, speaker of the Florida House of Representatives, and published in this morning's New York Times.

Mr. Pettigrew's children—Mr. Pettigrew and his family are white—have attended formerly all-black schools in two Florida school districts desegregating under law. His article is eloquent testimony to the value of public school desegregation. If Congress provides the kind of leadership to the Nation which Mr. Pettigrew and Governor Askew have given to the State of Florida, school desegregation will be an educational success.

Mr. President, I ask unanimous consent that Mr. Pettigrew's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTEGRATION IS WORKING

(By Richard A. Pettigrew)

TALLAHASSEE, FLA.—During recent years, Florida and the South have made giant strides toward ending the deep divisions that have persisted. We have tried to resolve the issues that arose out of human slavery as widely practiced during Colonial days and during the first 75 years of this country's existence.

An ancestor of mine charged up a hill at Gettysburg in the left flank of Pickett's Charge and was fatally wounded. General Pettigrew's men made the wall at the top of Cemetery Ridge. No man on the field of battle had ever demonstrated greater courage. Tragically, few men have died for meaner goals than to sustain the right to inflict slavery on other human beings.

After Emancipation of all slaves in Florida and other Southern states, the Reconstruction period was very badly handled and the vanquished in the South were deprived of their civil rights. The slaves were freed but no programs of any significance existed designed to improve the lot of former slaves. And so most returned to menial tasks and were placed in tenant shacks on farms or thrown into ghetto-type areas in cities.

For the next ninety years, public schooling was provided on a segregated basis and until the early fifties the schools and the teachers and the facilities for blacks were poorer than those provided to whites. Inescapable evidence led the U.S. Supreme Court to determine that such separation of children by race in the public school system resulted in unequal education of the children of the former slaves.

There are some who still disagree with that decision. I agreed with it at the time. I agree with it today.

Since that time, efforts have been made by many national, state and local leaders to carry out the nationally established goal of educational quality for every child in this country. The effort has been complicated particularly in urban areas by the continuation of segregated housing patterns which have not been susceptible to much change. The effort to provide educational equality has faced the problem that ghetto schools are located inside the ghetto and suburban schools are located wholly within white neighborhoods. And the only practical way that courts and school boards have been able to develop to integrate the school system has been to transport children in school buses out of the ghetto to formerly all white schools or into the ghetto into formerly all black schools.

For example, George Washington Carver Elementary School, where my son has been attending first grade, was formerly all black and Sunset Elementary School, which is two and a half blocks from my home, was formerly all white. There was great concern by parents in my neighborhood about sending our children to George Washington Carver because of the fear that, in that particular rundown neighborhood, there might be personal danger and certainly definite inconvenience to the parents of white children who must be sent under the plan developed under the court order. But a year later, most parents of children sent to George Washington Carver Elementary School are satisfied that:

1. Sufficient police protection has been afforded. There have been no incidents.

2. There is excellent teacher and student morale in the school and a good educational climate has been developed.

3. The perspectives of the children in an integrated classroom have been enlarged and the education of white children has not suffered, while significant improvements in the quality of schooling available to black children has occurred.

Since coming to Leon County for this legislative session, I moved the family to Tallahassee and my son attends Riley Elementary School, a formerly all-black elementary school, and my daughter attends Griffin Junior High, a formerly all-black junior high. Although they have not been going there very long, the principal adjustment they are having to make thus far has been moving at midterm into a new community and not to the location of the schools.

Thousands and thousands of white parents had faced this problem pursuant to court orders. After initial fears had died down, many, many parents have taken active parts in P. T.A.'s, have worked with school officials to solve the problem of the drastic changes wrought by integration orders. Elected school members have grappled and in most instances have worked very responsibly to try to solve the problems of integrating school populations. Some plans that have been developed were poorly thought out and poorly executed and have not worked well. In some instances, violence has occurred and adequate protection has not been given. But on the whole, because of the sacrifices of numerous white and black Southerners, integration is working and, with the continued courage and support of parents, teachers, school officials, state legislators and progressive, responsible governors, we will solve this problem and wipe out the last vestiges of slavery from this land.

SENATOR HAYDEN

Mr. CHURCH. Mr. President, I share the sadness being expressed by Senators upon the occasion of the death of Carl Trumbull Hayden at the age of 94.

We in the Senate have missed his presence since he retired nearly 4 years ago.

When I entered the Senate in 1957, the justly acclaimed reputation of Senator Hayden, then Appropriations Committee Chairman, was already firmly enshrined. He first became active, as a young man, in the affairs of the Arizona territory, where he served as a member of the Tempe Town Council and subsequently as Sheriff of Maricopa County. He was elected as a member of that State's first delegation to Congress, taking his seat in the House of Representatives in 1912. When Carl Hayden was elected to the Senate in 1926, I was then 2 years old.

As a freshman member of this distinguished body, I was pleased to have been able to learn from Senator Hayden, both by means of his sage counsel and by observing his effective, low-keyed legislative performance.

His words were few, but well-chosen, and he truly knew that silence can be golden and the currency of his words were thereby enhanced. His farewell to the Senate—and to the Congress—were characteristic. Announcing his intention to retire, Senator Hayden concluded with a paraphrase of an Old Testament quotation:

There's a time of war and a time of peace
A time to keep and a time to cast away,
A time to weep and a time to laugh,
A time to stand and a time to step aside.

As I said in the beginning, we in the Senate miss Carl Hayden but we appreciate him for his contributions to the Congress of the United States, wherein no one has served as long as he.

AVENA SATIVA

Mr. FULBRIGHT. Mr. President, thousands of Americans have at one time or another tried to stop smoking cigarettes. Many methods for breaking the smoking habit have been suggested and tried, but I am not aware of any that have been consistently successful.

I recently learned of a remarkable experiment, which, I believe, certainly appears to be deserving of further study. Amazingly, the experiment involved the use of decoction of common oats—Avena sativa—to break the smoking habit.

The story behind the experiment is a rather interesting one, as related by Dr. C. L. Anand in a letter to the editor of the British Medical Journal and in a brief article in the British magazine, Nature. While in India in 1967 he came across a practitioner of ancient Ayurvedic medicine who was using a secret formula to cure the opium habit. Intrigued by the success of the cure, Dr. Anand investigated, and discovered that the formula was actually a decoction of green oats.

Thereafter, he undertook a test among 26 cigarette smokers, including health volunteers and chronic patients in the chest wards of Ruchill Hospital, Glasgow, Scotland. In his article, Dr. Anand reports on the results of the study. Each patient kept a daily record of cigarettes smoked, commenting on any changes in the craving for cigarettes. By random allocation, 13 patients received the drug and the others received placebo for 28 days. No psychotherapy was used and no patients were taking any other drugs which could affect smoking. The two groups were comparable in age, sex and smoking history.

In the drug group the total daily con-

sumption by 13 patients was 254 cigarettes; at the end of the trial it was 74. Five had stopped smoking, seven had reduced it to less than 50 percent and in one no change had occurred. In the placebo group, the total daily consumption was 215 at the start and 217 at the end. Smoking had been stopped by none, reduced to above 50 percent by six and increased by three; four reported no change.

Dr. Anand concluded:

In the drug group various degrees of loss of craving for cigarettes were reported. The drug seems to reduce the number of cigarettes smoked per day, along with diminished craving for smoking. Moreover, the reduction in smoking seems to continue even 2 months after the termination of the drug. The drug has never been used in dealing with the problem of smoking and, as this was the first instance of its use in smokers, its role and significance are worthy of further investigation.

Mr. President, I would certainly agree that the results of this study merit further investigation, and I hope that competent agencies within the National Institutes of Health and elsewhere in Government will give the matter serious consideration.

It would truly be an interesting turn in history if common oats did prove to be the basis for an effective way to break the smoking habit.

In view of the fact that Dr. Anand observed that this decoction was being succesfully used in curing the opium habit, I think its possible use in helping to control drug problems in this country should also be pursued, particularly because of the relationship between opium and heroin.

I have corresponded with Dr. Anand, as has Dr. R. J. Pearson, Attending Physician to Congress, and I ask unanimous consent, that Dr. Anand's letter to me of February 9, 1972; his letter to the British Medical Journal of September 11, 1971; the article entitled, "Effect of Avena sativa on Cigarette Smoking"; and an undated news article from the Guardian be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BOARD OF MANAGEMENT FOR
GLASGOW NORTHERN HOSPITALS,
Ruchill Hospital, Glasgow, February 9, 1972.

Senator J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: I am grateful for your very kind letter of 31st January '72 and I am extremely grateful for your interest in my work with Avena sativa. I had, in fact, heard from Dr. R. J. Pearson, Attending Physician to the Congress, two months ago and I had sent him information that I have regarding the use of Avena sativa extract on cigarette smoking and opium addiction. I am sorry to learn that Dr. Pearson has not been able to obtain any fresh oat plant. I suggest that perhaps you can use the Indian variety of Avena sativa which I believe is about ready now. The harvest in my part of the country, that is North India, is ready for cutting in early April so I am sure at this stage, or in a few weeks from now, the plant should be ready for extraction. Other interested people have obtained the plant from Australia, South America and South Africa and they are working with the extract. The drug could be easily made in India and it involves a very simple process of extraction, as I have detailed in my letter in Nature, which Dr. Pearson has. I am sure that with your good offices you will be able to get the requisite amount of drug made either in India or in any other country where the plant is ready and mature at present. This could easily be found by your information agencies. The person who extracted this plant for my initial trials in India, Professor Sharma, is available for your services, if so required. Presently he is in Jullundur City, Punjab. At present the only other information available is its chemistry, which has been done by Professor Tschesche at the Department of Organic Chemistry, University of Bonn, and he has isolated some novel steroid saponins called Avenacosids which he hopes are responsible for the anti-craving function of this plant. More than this at present is not known. As you can appreciate, I am awaiting anxiously the results of other people's experience with this plant at present.

Thanking you once again,
With best regards,
Sincerely yours,

C. L. ANAND.

EFFECT OF AVENA SATVIA ON CIGARETTE SMOKING

In 1967, in India, I came across a practitioner of ancient Ayurvedic medicine who successfully used a decoction of common oats (*Avena sativa*) to cure the opium habit. While using an alcoholic extract of the plant on a group of opium addicts, several patients reported a loss of interest in smoking. The drug is listed in the United States Dispensatory and National Formulary [1,2], yet no reference has been traced regarding its application on smokers (Library of the Pharmaceutical Society of Great Britain, personal communication). I have therefore studied the effect of this drug on a group of smokers.

The active drug was an extract of healthy, fresh plant *Avena sativa* selected just before harvest. I used 1.5 parts of the crushed whole plant by weight in 5 parts by volume of 90% ethyl-alcohol, kept at room temperature with frequent agitation for 72 h and then filtered. The active constituent has not been identified.

Twenty-six cigarette smokers including healthy volunteers and chronic patients in the chest wards of Ruchill Hospital, Glasgow, including tuberculous patients, participated in the trial. The total duration of their smoking and the average number of cigarettes smoked per day in the proceeding six months were recorded.

They were told that a drug was being tested which might affect their smoking, and that they were not to make any conscious effort to alter their smoking during the trial.

TABLE 1.—NUMBERS OF CIGARETTES SMOKED DURING TRIAL

Group I (drug) Cigarettes per day		Group II (placebo) Cigarettes per day	
Before trial	After trial	Before trial	After trial
20.0	20.0	22.0	19.0
25.0	10.0	30.0	28.0
10.0	0	18.0	18.0
12.0	0	14.0	14.0
11.0	0	18.0	17.0
9.0	0	17.0	18.0
35.0	3.0	17.0	18.0
25.0	7.0	8.0	18.0
22.0	0	18.0	18.0
20.0	7.0	20.0	18.0
25.0	7.0	15.0	14.0
20.0	10.0	10.0	9.0
20.0	10.0	8.0	8.0
19.5 [1]	[1] 5.7	[1] 16.5	[1] 16.7

[1] Average.

[1] United States Dispensatory, twentieth ed., part II, 1513 (1918).

[2] National Formulary of the United States, seventh ed., 60 (1942).

Each patient kept a daily record of cigarettes smoked, commenting on any changes in the craving for cigarettes. By random allocation, thirteen patients received the drug and the others received placebo for 28 days. The alcoholic extract (1 ml.) was diluted to 5 ml. and each oral dose was 5 ml. of this dilution given four times a day. No psychotherapy was used. No patients were taking any other drugs which could affect smoking. The patients in both groups were comparable in age, sex and smoking history.

The results of the trial are given in Table 1. In the drug group the total daily consumption by thirteen patients was 254 cigarettes; at the end of the trial it was seventy-four. Five had stopped smoking, seven had reduced it to less than 50% and in one no change had occurred. In the placebo group the total daily consumption at the start was 215, at the end it was 217. Smoking had been stopped by none, reduced to above 50% by six and increased by three; four reported no change.

The two groups were comparable in their smoking habits, since group I "before" (mean 19.5±2.0 s.e.) is not statistically separable from group II "before" (mean 16.5±1.7 s.e.); $t=1.33$, $0.30>P>0.20$. Group I "before" is significantly different from group I "after" (mean 5:7±2.0 s.e.); $t=5.21$, $P<0.001$. *Group* II "before" is not different from group II "after" (mean 16.9±1.4 s.e.); $t=0.180$, $0.90>P>0.80$. The mean differences between the groups due to treatment (group I "before"—group I "after") and (group II "before"—group II "after") are naturally equally significant; $t=5.73$, $P<0.001$. All these calculations are based on Student's t test.

In the drug group various degrees of loss of craving for cigarettes were reported. The drug seems to reduce the number of cigarettes smoked per day, along with diminished craving for smoking. Moreover, the reduction in smoking seems to continue even 2 months after the termination of the drug. The drug has never been used in dealing with the problem of smoking and as this was the first instance of its use in smokers, its role and significance are worthy of further investigation.

I thank Dr. G. J. Addis for help with statistical analysis and Professor V. D. Sharma for extracting the drug.

C. L. ANAND.

47 GLARENDON STREET, *Glasgow NW.*
Received June 4, 1971.

TREATMENT OF OPIUM ADDICTION

SIR,—In the Punjab in 1967 I came across a Hakim who was employing a self-dispensed liquid medicine to cure the drug habit in opium addicts. His results, which were quite successful, intrigued me and I ultimately succeeded in getting the secret recipe of the liquid. It turned out to be a decoction of green oats.

I found it listed in the *National Formulary* [1] and the *United States Dispensary* [2] as *Avena sativa*, but there was no mention there of therapeutic properties. No formal record has so far been traced with regard to its use in opium addicts. An alcoholic extract of the whole plant excluding the root was obtained. A clean, healthy mature plant was selected just prior to harvest. An extract of the fresh plant was made in the ratio of 1.5:5 parts of 90% ethyl alcohol at room temperature over a period of 72 hours. During this time the mixture was frequently shaken. Finally, the solution was filtered. The active principle has not been identified. No other opium derivatives, barbiturates, or any form of

[1] American Pharmaceutical Association. *National Formulary of the United States of America*, 7th Ed., p. 60. Washington, American Pharmaceutical Association, 1942.

[2] *Dispensary of the United States of America*, 21st Ed., Part I, p. 208. Philadelphia, Lippincott, 1921.

psychotherapy was used. A 2-ml dose of the extract, suitably diluted, was given t.i.d.

Ten chronic opium addicts who had attended a clinic at the Susheela Mehra Memorial Hospital, Jullundur City, Punjab, for other medical reasons were asked if they would consider trying a drug to break the opium habit. They were not very enthusiastic of the final outcome as previous treatments had uniformly failed. However, they all gave their consent. All the patients were men, and the trial took place in 1968–9. The average age was 42 years. The length of the habit varied from 3 to 20 years (average 10–8 years), and the oral ingestion of opium per day varied from 0.5 g to 4.0 g. Average daily intake was 1.65 g at the start of treatment. During its course most patients were able to reduce the opium intake gradually. "Restless legs," mainly at night, were observed in six of the 10 patients; there was also difficulty in falling asleep during the reduction of opium.

All these patients had in the past tried various treatments to come off opium and they were extremely dubious of getting any result. The drug was thus taken without any bias or expectations. No manner of psychotherapy, opiates, or any other substitution therapy was employed. Under the effect of the extract the patients could reduce their daily opium intake themselves, and this reduction was made on the patients' own initiative. They were never asked to reduce their opium intake. They had free access to opium and no control on its availability to them was either possible or applied. Thus, there was no supervised or graded withdrawal which is known to be an effective management of opium addiction.

No serious withdrawal symptoms were noticed nor were there any side effects attributable to the drug. The observation that nine out of ten patients continued with their work during treatment excluded any marked changes in behaviour and general well being. The *Avena sativa* treatment varied from 27–45 days (average 34 days), after which it was not repeated.

At the end of the trial six had given up opium; two had reduced it, and two showed no change. At the last follow-up, which varied from 3–19 months (average 7.7 months) after the cessation of treatment, the daily average intake was 0.56 g. Six patients were still off opium or any of its derivatives or barbiturates; two had reduced their opium intake; and two showed no change.

The drug has never been applied in the management of the opium habit and as the problem of addiction remains so distressing and formidable, a detailed study of the role of this drug seems justified.

During this treatment some patients also lost their craving for cigarettes. A study in cigarette smokers is under way.—I am, etc.,

C. L. ANAND.

GLASGOW N.W.

PORRIDGE OATS CAN STOP YOU SMOKING

(By Bryan Silcock)

An alcoholic extract of common oats, the sort used to make porridge, has a dramatic effect on smokers' craving for cigarettes, according to a report in the journal Nature. If further trials bear out the results of preliminary experiments the drug that all would-be non-smokers have been hoping for may actually become available.

"I came across someone giving opium smokers a decoction of oats plants to cure the habit in India in 1967," says the author of the report, Dr. C. L. Anand, of Ruchill Hospital, Glasgow.

"I tried it myself on 10 opium smokers and the results were encouraging, so I thought I'd try it on ordinary smokers."

Twenty-six smokers took part in the trials, some healthy, some from the hospital chest wards. Half received the oats extract, half an indistinguishable dummy mixture. None of the volunteers knew which they were getting.

After 28 days, the average cigarette consumption of the 13 people receiving the oats extract was down from about 20 to about six a day. Five had given up entirely, and all but one of the remainder were smoking less than half as many as at the beginning of the experiment. But average consumption among the smokers getting the dump mixture was virtually unchanged.

"The drug seems to reduce the number of cigarettes smoked per day, along with a diminished craving for smoking," writes Dr. Anand. "Moreover, the reduction in smoking seems to continue even two months after the termination of the drug."

HARTFORD TIMES EDITORIAL

Mr. RIBICOFF. Mr. President, we are now entering the third year of debate over the question of national school integration. During that period a lot of time and money have been expended, but the Senate has no positive solution to offer a nation badly in need of leadership.

As I have warned repeatedly during the course of these debates, the absence of either congressional or Presidential initiative would force the Nation's judiciary to act. The courts are beginning to assume the initiative we should have taken. As a result they are also absorbing the emotional opposition to progressive action we were elected to bear.

Don O. Noel, Jr. the editor of the Hartford, Conn. Times editorial page, has written a perceptive analysis of this regrettable situation which I believe Senators will find most interesting.

As Mr. Noel says:

Most of us recognize the problem, even though differing on solutions. Given leadership, frank public dialogue, and an honest searching together, we could unite behind a reasonable program; could even take pride in some sacrifice in behalf of the principles and ideals we all profess.

But leadership is essential—not the kind of abdication that leaves the job to the courts, and then castigates the courts.

I ask unanimous consent that Mr. Noel's editorial, published in the Hartford Times of February 19, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MUST COURTS TAKE THE RAP FOR LEGISLATIVE FAILURE?

(By Don O. Noel Jr.)

The Congress is considering telling the Supreme Court to stop doing what Congress itself has not had the guts to do and I think we are in trouble.

A great many people thought, or hoped, that the Supreme Court would go away and stop reiterating our Constitutional principles once Mr. Nixon got his hands on it; maybe Mr. Nixon even thought so. But Mr. Nixon has gotten his hands on the Court—four of the nine men are now his appointees—and the Court has not gone away, nor has it stopped calling us to the best in our American traditions.

What the courts have been doing is what our elected officials have been afraid to do:

No one doubted that state legislatures were ill-apportioned that, in state after state, rural districts with a minority of the population held sway over the urban and suburban majorities. But no one did anything until the "one-man, one-vote decisions."

No one doubted that the property tax was grossly inequitable, a vestigial remnant of a rural society. But no one did anything about it—nor, in fact, are most state legislators and governors doing anything yet, until their very own court gives them their very own order.

No one really doubts that poor black children were given inferior educations in the South as a matter of deliberate policy, written into law and the same children in the rest of the country suffer the same disadvantages as a result of tradition and far more subtle legal barriers.

That last item is the one Congress is upset about. A number of Senators and Representatives are rounding up votes to declare school segregation off-limits for court action.

Such a law is of dubious Constitutionality; it has been done only once before, and it is far from clear that the present "strict constructionist" Supreme Court would stand for it again.

But that is almost beside the point.

The most outrageous facet of the current drive is the failure of Congress, and state legislatures, and Presidents and governors, to offer any solutions of their own.

Court orders are, by their very nature, heavy-handed.

For instance: I think the one-man, one-vote decisions have resulted in an unworkably rigid and legalist set of guidelines. Because legislatures refused to create representative districts of approximately equal size, the courts have now demanded districts of exactly legal size.

As a result, in Connecticut, we are about to have districts that make mincemeat of town borders, and therefore mincemeat of town committees and town nominating conventions and the like.

We are about to have state Senate districts that bear no relationship to state House districts: You and one near neighbor may elect a representative together, while you and another neighbor a few blocks the other way may elect a senator together.

Blame the courts?

Not really. Blame the Legislature itself.

About schools:

In Richmond, Virginia, a federal court has ordered the consolidation of the (predominantly black, predominantly low-income) city school district with two (predominantly white, predominantly upper-income) county districts. The purpose: To provide equal educational opportunity for all children.

Richmond's court order is hardly academic to us. A similar suit, here in Hartford, seeks a similar court order. The legal grounds are nearly identical. There is every reason to suppose a similar ruling will, in due course, issue here.

There are some minor differences. In Richmond, it was the city school board itself that brought suit and forced the issue.

In Hartford, neither the city School Board nor the City Council has even joined the suit, although a majority of elected officials on both bodies will tell you off the record they think it is a sound suit, and does what needs to be done.

In neither Virginia nor Connecticut has any state official—neither the State Boards of Education, which in both states have the unquestioned power to consolidate school districts, nor the State Legislatures—made the least move in this direction.

On this issue, as on a great many others, responsible officials know what needs to be done.

But they are afraid to do it, because they fear the outraged reaction of a constituency with whom they have carried on no dialogue; a constituency they have not tried to educate; a constituency with whom they have not tried to share the difficult task of finding solutions.

There have been very few exceptions. One of them is Abe Ribicoff, the senior Senator from Connecticut, who has consistently and

courageously urged that elected officials grapple with the problems, and stop shunting responsibility off onto the courts.

Reuben Askew, the courageous governor of Florida, has taken much the same kind of stand only this week.

But few are listening.

President Nixon, to his credit, dampened enthusiasm for a Constitutional amendment in private sessions just before leaving for China. Vice President Agnew has been more explicitly opposed. So are many Congressional leaders.

But they are still casting around for ways to steer the courts away from busing.

That evades the central issue. The Supreme Court in 1954 ordered no solutions to the inequity of segregated schooling; it merely ordered "all deliberate speed" in finding local solutions.

Courts began ordering busing only because what followed was so clearly not speed, although it appeared deliberate. As with the one-man, one-vote issue, the judiciary has acted only when no one else would.

There may be no solution without some busing. The acceptance and success of our own Project Concern tells us all busing isn't bad.

But if there is to be any solution save court orders, our elected leaders must grasp this painful nettle.

Most of us recognize the problem, even though differing on solutions. Given leadership, frank public dialogue, and an honest searching together, we could unite behind a reasonable program; could even take pride in some active sacrifice in behalf of the principles and ideals we all profess.

But leadership is essential—not the kind of abdication that leaves the job to the courts, and then castigates the courts.

SHOULD WE BELIEVE GOVERNMENT STATISTICS?

Mr. PROXMIRE. Mr. President, since the cancellation of the BLS press conferences on unemployment and prices early last year, I have been convinced that the credibility of Government statistics was being seriously eroded. Termination of the press briefings coupled with the personnel shuffling in the key statistical agencies have led both the press and the public to question whether or not the administration was doctoring the data to make a weak mediocre recovery look stronger.

However, up until now most economists and professional business analysts have dismissed these implications and have insisted that the integrity of the statistics was being maintained. Yet an excellent but disturbing article in today's Journal of Commerce claims that many economic analysts have begun to suspect that agencies are shading their statistical releases for political purposes. The Journal suggests that there is considerable evidence that Washington for some time has been endeavoring to brainwash businessmen and consumers into believing that economic conditions and the economic outlook are more favorable than they actually are."

I do not mean to call into question, nor does the Journal of Commerce, the integrity of Government technicians who prepare these data. A Journal editorial on the same subject states that—

Any and all suggestions that there may be a little politicking in all this doubtless create grief and indignation in the government's statistical agencies which are, after all, probably the best in the world. But we are not blaming the agency staffs for whatever political shading is done, whether inadvertently or not.

If there is any political maneuvering taking place, the responsibility lies with the political chiefs and not with the Indians. According to the Journal of Commerce:

If there is blame to be placed it must be placed elsewhere, which necessarily means on the upper echelons of the Administration itself.

Mr. President, I believe that the integrity of our Government statistics should be a completely nonpartisan issue; and I sincerely hope that these charges are untrue. But if they are, indeed, true, and the actual data are being tampered with, then, as the Journal so aptly stated:

Eventually, "murder will out," and the end-result of doctoring the official business data could prove to be extremely unfavorable.

Mr. President, I ask unanimous consent that the article and editorial be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DATA IN A DOUBTFUL CONTEXT

A number of people have begun to wonder of late whether the administration is trying to shade for political purposes the statistics its agencies publish regularly for the benefit of those who are trying to discern meaningful trends in the economy. Several reasons for this wonderment are set forth elsewhere in these pages.

The possibility that something like this may be going on is not strictly new. It was certainly under consideration throughout much of last year as the White House began on its own to announce what it considered to be the more favorable figures while leaving it to the Council of Economic Advisers to explain that the "other figures really weren't as bad as they looked. It was weighed even more heavily when, on orders from higher up, the Bureau of Labor Statistics abruptly abandoned the technical briefings its staff experts had traditionally conducted for the news media. Henceforth the chiefs would handle this; not the Indians.

No one seemed to have unearthed any conclusive evidence that politics was worming its way into the official economic data. But no one suspecting its presence had any reason to believe it was making an exit, either.

Last year most of the questions that cropped up at all involved the manner in which the figures were disclosed. Now comes a nagging question of the manner in which they are put together for presentation to the public.

One particular instance cited elsewhere in this issue provides a case in point. An increase of nearly 8 per cent in new orders for durable goods between December and January is a dramatic development when the economy is hanging in a balance as uneasy as this one is now. And the discovery that the new durable orders were running most heavily in the transportation industry was equally—if not more—so.

The reason ought to be plain enough. If the transport industry is beginning to order new equipment in volume, the usual assumption is that it is doing so in the expectation of a lot of new business. It would not entertain such expectations without assurances from shippers that a significant upswing in traffic would be forthcoming. Ergo, the big increase in the January orders for new transportation equipment could only mean one thing—that the long anticipated business upswing was imminent.

Now it is true that the Commerce Department did not put quite this construction on its own figures. But neither did it indicate that anyone putting such a construction on them would be seriously mistaken. For investigation showed that the real cause of the January upswing in orders for new durables was not to be found in a renewal of business confidence but in a bunching of orders from the Department of Defense for defense-related shipping. The overall totals were also swelled by new orders for "defense product" industries.

It may be argued, of course, that no particular harm is done by gilding the rather tired-looking lily in this way. For one thing, there will always be those who will probe behind the figures and find the answers. For another, the November elections are still in the future and there is practically no way in which an administration bent on making things look rosier than they are could extend the deception—if it was a deception—indefinitely. The February figures are yet to come, and the more those of January were inflated by defense orders, the worse the next figures are going to look by comparison. Sooner or later the truth will out.

But there is another factor that Washington may well have considered. By the time the official data bring economic trends into proper focus the momentary joys of the previous month's figures have probably been forgotten. For example, it is comforting to think that the Federal Reserve's industrial production index for January is 107.9, as against 107.6 for December—comforting, that is, unless one remembers that the December index was originally estimated at 107.8. It is much the same story with housing starts. Things seem to be rather consistently presented in such a way as to make them look a shade better than they are.

Any and all suggestions that there may be a little politicking in all this doubtless create grief and indignation in the government's statistical agencies which are, after all, probably the best in the world. But we are not blaming the agency staffs for whatever political shading is done, whether inadvertently or not. If there is blame to be placed it must be placed elsewhere, which necessarily means on the upper echelons of the administration itself.

If it should be discovered however, that there is no basis whatever for the suspicions entertained by the administration's critics, there is one way of dispelling them that should create no difficulties for anyone. Administration officials from now on should deliberately lean over backward to avoid giving the impression that their figures are being doctored, shaded or assembled in odd sequences designed to give the impression that current trends are not precisely what they seem.

A clear directive from the White House to this effect should help measurably in clearing the air.

VALIDITY OF U.S. STATISTICS ON BUSINESS QUESTIONED

The question recently has arisen, with some apparent justification, whether it now has become official Washington policy to deliberately cloud the statistics on various phases of business activity, in a concerted effort to convince the public that what actually has all the earmarks of a sluggish economy is a booming economy.

It has been readily apparent, ever since the civil service employes who assemble the business statistics were muzzled and forbidden to express their views on the economic significance of the statistics, that the administration designated spokesmen have strenuously endeavored to make even the most unfavorable business developments appear to be favorable.

And, as evidenced by the headlines and lead paragraphs on stories of economic developments filed from Washington, the spokesmen have met with a considerable measure of success in this.

Among economists and economic analysts who utilize the official business statistics, it always has been maintained that the essential integrity of the statistics was unquestioned and that such misinterpretation as they might be given was solely due to the politically-minded official spokesmen.

STATISTICS "DOCTORED"?

Very recently, however, some economists and economic analysts have begun to entertain the suspicion that, as a result of administration pressure, the business statistics now are being "doctored" at the agency level to make business appear to be considerably better than it actually is and thereby strengthen the confidence of businessmen and consumers.

These are very serious charges, and it is quite understandable that those who have begun to entertain such suspicions are unwilling to voice them publicly.

It is a well known fact, of course, that some authoritarian governments boost their statistics on industrial and agricultural production in attempts to convince their own people and the rest of the world that conditions are much better than they actually are.

While there always have been some here who have questioned the reliability of official Washington business statistics, particularly when business appears to be less strong to them than indicated by the official reports, this is the first time so far as is known that even a small number of economists and economic analysts have begun to suspect the possibility that the official business statistics are being doctored.

Of necessity, economists and economic analysts have to rely on the essential integrity of the official business statistics. Otherwise, they are lost".

"DOWNWARD REVISIONS"

While recognizing this, those who recently have become somewhat suspicious feel that it is considerably more than a coincidence that, primarily as a result of "downward revisions" of the data for December, the reports on industrial activity and housing starts for January indicated strength that actually may have been nonexistent.

For January, the Federal Reserve Board index of industrial production was reported at 107.9 (base 1967 equals 100) as compared with 107.6 for December.

But, the original FRB index for December was 107.8 or not significantly different from the preliminary January index. And, it is reasoned that, of the index for December had to be revised downward, the index for January also may have to be revised downward.

Housing starts, a very important leading business indicator, "continued to boom in January" as reported from Washington. The seasonally adjusted annual rate of starts was reported at 2,549,000 dwelling units as against 2,333,000 in December.

However, the starts rate for December originally was placed at 2,517,000 or practically the same from a statistical standpoint as the preliminary January estimate. With downward revisions now apparently the order of the day, there seems reason to suspect that the January rate may be revised downward to near the revised December rate.

Those economists and economic analysts who recently have become suspicious of the integrity of the official Washington business statistics hold that, by successive downward revisions of previous data, business activity can appear to be moving ahead briskly from one month to thhe next even though it actually may be all but a standstill.

New orders for durable goods, a very important leading business indicator, reportedly showed a huge increase of close to 8 per cent in January from December. If real, this would indicate that a sharp, upsurge in industrial activity is close at hand.

However, those economists and economic analysts who have become suspicious of the integrity of Washington business statistics are much inclined to feel that the huge rise in January new durables orders was "managed" in order to swell the leading indicator composite and enable Washington spokesmen to once again endeavor to convince the public that business is booming or will boom soon.

For, it was discovered after considerable runaround that most of the new orders in the "transportation" industry, which apparently originated in the private sector of the economy, actually represented orders for ships for military use, this in addition to a large increase in new orders in the "defense products" industries.

Many months and possibly several years will elapse before some of these defense orders influence business activity.

FRESH SLUGGISHNESS

It may have been only a coincidence, of course, that the Defense Department handed out a huge volume of new orders in January, and it may have been only a coincidence that the Department of Commerce report on new durables orders indicated that much of these had originated in the private sector of the economy, at the very time that the private sector of the economy had begun to display fresh sluggishness.

However, some economists and economic analysts feel that there have been altogether too many "coincidences" recently to write this off as one of those things that happen from time to time.

There is considerable evidence that Washington for some time has been endeavoring to "brainwash" businessmen and consumers into believing that economic conditions and the economic outlook are more favorable than they actually are. It is to be hoped that the suspicions of some economists and economic analysts, with respect to the integrity of the official business statistics, are groundless even though there seems to be basis for such suspicion.

Eventually, "murder will out", and the end-result of doctoring the official business data could prove to be extremely unfavorable.

REPRESSION AGAINST EAST PAKISTAN

Mr. STEVENSON. Mr. President, following my recent visit to India and Bangladesh I spoke, both in sorrow and in anger, of the grave damage done to the prestige and good name of the United States by the Nixon administration's complicity in the barbaric campaign of repression carried out by the forces of Yahya Khan against the people of East Pakistan.

The consequences of American policy in this tragic episode are explored by C. L. Sulzberger in a dispatch from Dacca in today's New York Times. I commend Mr. Sulzberger's lucid article to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A JOB TO BE DONE

(By C. L. Sulzberger)

DACCA, BANGLADESH.—Diplomats stationed in Asia are saying to each other nowadays that the Indian subcontinent's traumatic experience, including Pakistan's mass slaughter of Bengalis here and its subsequent defeat by India, proved three things: that Russia can be trusted, that America cannot be trusted, and that China need not be feared.

This is more a contemporary *bon mot* of the kind diplomats like to specialize in than an accurate historical summation. Nevertheless there isn't the slightest doubt that the reputation of the United States for sagacity, generosity and justice is at a new low in India and nonexistent in the Government of the 75 million inhabitants of Bangladesh. As for Pakistan—the so-called western wing left over from what was never anything more than a boastful geographical expression—the regime likes Washington but could easily switch with events.

After all, President Bhutto was once renowned as a Yankee-baiter. If the two comes, as it probably will, when Washington refuses him arms and massive aid, he may resume old habits. The popular trend is not running our way anywhere in this immense area of three quarters of a billion people. There is even a sizable slice of extreme left-wing opinion in Pakistan, above all in the Pathan and Baluchi provinces, that is by no means in love with us.

This is especially sad for Americans who, unlike the British, would rather be loved than respected. At this moment and in this area we are neither loved nor respected and the Russians are wreathed in smiles at their current acclaim. Furthermore, after Uncle Sam has poured much more money into this part of the world than he invested in the entire Marshall Plan, he must feel particularly rueful at contemplating the wreckage.

Indian newspapers lambast the United States every day and Indian officials dribble out the snide remarks for which they have a special talent. People once known as firm friends of America are now proving their patriotism by vicious attacks. In Pakistan there is of course considerable sympathy and gratitude for United States help in the recent ill-fated war but people cannot help but note the assistance bore little fruit.

And in Bangladesh, the victim of the special kind of unbelievable savagery which can suddenly storm like a monsoon through this region, Americans are individually liked by the good-natured Bengalis but the United States Government is detested. The brutality let loose here was at least equal to that of the nineteen-forties when British India was partitioned amid torrents of blood. When these people are angry they slaughter each other in unimaginable ways, which is all one can say of the horrors committed here by Pakistani troops.

The fact that the United States Government made no protest and at the same time continued a one-shot weapons program to rearm Pakistan, is held in moral contempt in India and Bangladesh. A well-known telegram of protest at American policy was sent by the members of the United States consulate general staff here to the State Department.

It is obvious that President Nixon did everything possible to prepare a favorable ground for his China visit and that Pakistan was well viewed by Peking. But now the trip is on; what will come will come; and American policy must speedily rectify the lopsided situation prevailing in this region. Nixon himself acknowledged earlier this month that "we have under study our whole relationship with the subcontinent."

Financial generosity is not enough. We are going to have to grant diplomatic recognition to Bangladesh, which is a political reality—and the sooner the better. We are going to have to retilt policy sufficiently to appear at least objective and we are going to have to cultivate the *amour propre* of all three nations in this area with some serious diplomatic huckstering, dispatching eminent, likable and cultivated leaders to visit these parts.

Even in *realpolitik* and the conceptual approach to power balances it is necessary to

honor the old-fashioned virtues of kindness, mercy, sympathy, which are those American society is taught to honor and which appear to have been lacking. It is essential that when we set about polishing our image we pay attention to rectifying the reality of that image and not merely its reflection.

COSPONSORSHIP OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I take great pleasure in cosponsoring legislation to implement the Genocide Convention. In joining my distinguished colleagues, the Senator from Pennsylvania (Mr. SCOTT) and the Senator from New York (Mr. JAVITS), I must say that it has been a painfully slow journey to get to this stage and all due haste should be made toward ratification.

In 1967 I believed it necessary to speak in favor of ratification every day the Senate was in session. At that time, 5 years ago, ratification of the treaty was already long overdue. Today our hesitation is all the more obvious and all the more shameful.

With the legislation now before the Senate, all the misconceptions and petty indecisions must be dispelled. There can be no doubt as to the positive merits of the treaty. The details for implementation, for the prevention and punishment of genocide, are now presented in black and white. Further delay could not be justified. Debate should be swift.

Although I am delighted to be a cosponsor of this legislation, I will remain unsatisfied until it is enacted into law. Let us be party to this humanitarian convention to outlaw genocide.

COMPENSATION TO VICTIMS OF CRIMES

Mr. CRANSTON. Mr. President, I am pleased to join as a cosponsor of S. 2994, a bill introduced by the distinguished Senator from Arkansas (Mr. MCCLELLAN) to provide compensation to victims or crime; to make grants to States for the payment of such compensation; to authorize death and disability insurance benefits for public safety officers; to provide civil remedies for victims of racketeering activities; and for other purposes.

California, I am proud to note, was the first State to pass a law to compensate individuals who suffer losses because of violent crime. California has two compensation programs. One program aids the victims. The other, which I originated, aids those who were injured while trying to prevent a crime or helping apprehend a criminal, commonly known as the "Good Samaritan Law." Since the Compensation to Victim of Crimes law became effective in 1967, 330 claims totaling $521,000 have been paid. Under the "Good Samaritan Law," there have been 50 claims since 1965, of which 32 were granted for a total of $137,000. The highest award, for $79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife.

The concept of compensation for victims of crime is not new. Even in ancient times, under Mosaic Law and the Code of Hammurabi, there were provisions for public reparation for individuals who suffered criminal assaults. Hammurabi's Code Section 23 (Circa 2038 BC) for example, provided that: If a robber is not caught, the Mayor in whose territory or district where the robbery has been committed shall replace whatever was lost. Over the centuries, however, crime has come to be viewed primarily as an offense against society rather than against the individual. Criminal actions are filed by the State in the name of State against John Doe, rather than the Victim against John Doe. Victims therefore are left with little recourse for remuneration except to file civil suits against criminals, few of whom have any financial resources. Many criminals, unfortunately, are never even apprehended, so victims of crimes often face serious financial hardship.

The President's Commission on Law Enforcement and the Administration of Justice reported that poor people are the most likely victims of crime. Their study also showed that violent crime occurs most often in the poverty stricken areas of our cities. The President's Commission estimates that loss of earnings and the medical expenses of victims of crime amounts to $800 million a year. Their annual property losses exceed $4 billion. As crime rates rise, society's neglect of the victims of crime creates an increasingly urgent problem that is national in scope.

Society pays a price for failing to remedy losses suffered by victims. These losses cause financial insecurity, unemployment, and social disruption. Our neglect of the victims of crime is inconsistent with our policy of compensating victims of the social dislocations of our industrial society: Workmen's compensation for people injured on the job, unemployment compensation for those thrown out of work, social security for the aged, and disability insurance for the disabled. We are now even considering no-fault insurance to compensate victims of auto accidents. Crime compensation programs should surely parallel our other social programs.

The crime index rate for the United States rose from 2,477 offenses per 100,000 inhabitants in 1969 to 2,740, an increase of 11 percent in the victim rate. The crime index for California alone rose from 4,307 offenses per 100,000 inhabitants in 1969 to 4,376 in 1970, an increase of 6.8 percent. The national crime rate, which is the measure of a person's chances of being victim of these crimes, increased 144 percent between 1960 and 1970.

The President's task force report indicates that crime statistics now fail to pick up a significant number of crimes because many are never reported to the police. The National Opinion Research Center survey showed that the actual amount of crime in the United States today is several times greater than that listed in the United Crime Report. Victim compensation plans should encourage the reporting of crimes since victims would not be able to get financial help unless they reported a crime and cooperated with the police.

Only seven States have enacted victim compensation laws. A contributing factor to this slow progress may be lack of funds. By offering financial grants to States that adopt a Victim Compensation Act, this bill should encourage States to consider this form of remedy.

I strongly urge the Judiciary Committee to hold hearings promptly on this legislation. Our rising crime rate shows the need for crime compensation programs. This is a crises of order and justice under law, one that requires comprehensive action. Certainly those who abide by the law should have protection from those who break the law.

NIXON'S RIGHTEOUS BALONEY

Mr. CHURCH. Mr. President, by now, this administration has reversed itself so often, on so many fronts, that President Nixon should go down in history as the whirling dervish of American politics.

The turn-abouts occur with such rapidity that the American people seem transfixed by the blur in public policy. The devaluation of the dollar is made to appear like the greatest fiscal triumph since the discovery of gold. Record-breaking national deficits are hidden behind the facade of a self-proclaimed "businessman's administration." There is constant talk of revenue sharing even though there is no revenue to share.

President Nixon speaks of gratifying progress toward peace and asks for more money for arms. He assures the country that our economy is growing stronger and announces an unheard-of-hemorrhage in our balance of payments of nearly $30 billion, combined with the first deficit in our balance of trade in this century.

Henry G. Gay, writing in the Shelton-Mason County, Wash., Journal, recently observed that Mr. Nixon has apparently discovered the secret of how to fool most of the people most of the time. His editorial, captioned "Nixon's Righteous Baloney," deserves much wider reading than his newspaper's limited circulation can give it. Accordingly, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIXON'S RIGHTEOUS BALONEY

(By Henry G. Gay)

President Nixon has apparently discovered the secret of how to fool most of the people most of the time.

His advisers concluded, cynically but correctly, that Americans' critical faculties are numbed while they watch television.

A viewing public that will accept "All in the Family" as a crusade against bigotry, or swallow the claim that cigarettes and cigars are sexual magnets, will accept failure as success if it is presented to them as such on the boob tube.

We have thus been presented with a series of administration failures labeled as successes, the lastest being Tuesday night's death rattle of Vietnamization, trumpeted as the latest victory in a three-year search for peace.

You will remember the aftermath of the unsuccessful raid on a North Vietnamese prisoner of war camp. President Nixon appeared on television pinning medals on the chests of officers whose intelligence system was so faulty they risked the lives of their

men to invade a compound that contained not one prisoner.

If President Grant had availed himself of this technique, General George Custer would have been buried on the White House grounds following the massacre of the Little Bighorn.

When his original economic game plan failed disastrously, the president appeared on the tube and told the unemployed and the hard-pressed elderly that they must bite the bullet as soldiers in the war against inflation, which was being won.

When this bit of rhetoric failed to stem mounting inflation and unemployment, he appeared to tell us that his efforts to end the war had been so successful that the switch from a wartime to a peacetime economy called for a grand new program of wage and price controls which really didn't mean that his former plan had failed because he really didn't believe in wage and price controls and would use them only long enough to stop inflation and get the economy moving again so he could return to his former game plan which was really best all along and then the country would once again be the champion of free enterprise throughout the world and he would lead us ever-onward ever-upward.

Phase I of the wage-price freeze was chaotic. Phase II is an incomprehensible mess of exemptions, exceptions, favoritism, and practically a total lack of enforcement. The only positive aspect of the new economic game plan is the tax cut portion, which assured that the rich get richer and the poor get poorer.

When this farce has run its course, President Nixon will once again appear in our living rooms to tell us the wage-price freeze has worked so well he is abandoning it now that the light can be seen at the end of the inflation tunnel.

Tuesday night's exercise in trickery was especially sickening, because it involved deception about a war in which the United States has lost tens of thousands of men and killed hundreds of thousands.

The president's message was that we have lost the war in Southeast Asia and that his program of Vietnamization has failed. But this message was presented as a super expose of the secret efforts of a band of good guys who have been foiled at every step by a gang of bad guys.

In other words, more righteous baloney. The kind of righteous baloney that sent Lyndon Johnson down the tube and put Richard Nixon in the White House. (Lyndon, of course, had not discovered the secret of television selling.)

The cruel truth of this lengthy charade is that when Richard Nixon ends the war he will have to do it in just the way critics of the war have been advocating for years—get the hell out.

He should have done it in 1969. If he had, 19,000 Americans would not have died in vain during the three years he has been in office

But, then, 1969 wasn't an election year.

THE 1972 SENIOR WORLD CHAMPIONSHIP GAMES

Mr. CRANSTON. Mr. President, from June 4 to 25, 1972, one of the fastest growing and most complex sporting events in the world, the annual Senior World Championship Games, will be held in California. Under the sponsorship of Senior Sports International, the city and county of Los Angeles, and the cities of Culver City and Santa Barbara, the 1972 Senior Games will provide competition in 22 popular sports for men and women from throughout the world who are in the 35-and-over age bracket.

The Senior Games were developed in 1970 with the goals of promoting healthier and more productive lives for adults through sports; broadening the base for international understanding; bringing adults and youth together in a positive environment; and recognizing the adult athlete by giving him the opportunity to experience the excitement of world championship competition. From a miniscule beginning of 225 competitors in two sports, the games' scope had substantially broadened—encompassing 2,000 competitors in 22 sports this year—as greater numbers of adult athletes return to the competitive arena. When the program is fully developed, it is expected that adult athletes will compete in some 40 sports.

As a track and field competitor myself, I am delighted to see this surge of interest on the part of our senior athletes.

I extend a cordial invitation to Senators and their constituents to attend the Senior World Championships. If there are any potential senior athletes among us, I urge them to enter and compete.

VACCINE EFFICACY

Mr. RIBICOFF. Mr. President, the Department of Health, Education, and Welfare has today announced in the Federal Register that the Federal agency which has responsibility for regulating vaccines for human use—the Division of Biologics Standards—DBS—has been given responsibility for the first time to insure that vaccines sold and administered to the public actually work.

On October 15, 1971, and again on December 8, 1971, I released documents prepared by James Turner and Dr. J. Anthony Morris which indicated that no Federal agency was actually responsible for seeing that vaccines were effective. These documents revealed serious questions about the effectiveness and safety of several vaccines widely used in this country.

I, therefore, urged HEW Secretary Elliot Richardson to require the Division of Biologics Standards to guarantee that vaccines sold to the public are effective.

HEW's response to that request has apparently corrected an intolerable situation. I have directed the staff of my Government Operations Subcommittee on Executive Reorganization and Government Research to continue to study the documents released by the Department to determine whether all necessary steps have, in fact, been taken to give DBS the authority to keep vaccines that are not effective from reaching the market.

As I announced in December, I have also asked the General Accounting Office to investigate the question of vaccine efficacy and several other related questions concerning the performance of the Division of Biologics Standards. That report will be forthcoming in the near future.

I ask unanimous consent that the text of the HEW announcement be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

[Office of the Secretary]

HUMAN DRUGS WHICH ARE BIOLOGICAL PRODUCTS—REDELEGATION OF AUTHORITY TO ADMINISTER CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

The following authority delegated to the Assistant Secretary for Health and Scientific Affairs by the Secretary of Health, Education, and Welfare under section 6 of Reorganization Plan No. 1 of 1953 and section 2 of Reorganization Plan No. 3 of 1966 is hereby redelegated to the Commissioner of Food and Drugs and the Director, National Institutes of Health, as follows:

1. Effective this date, each of you is hereby concurrently redelegated the authority vested in me to administer, enforce, and apply all applicable provisions of the Federal Food, Drug and Cosmetic Act, as amended, with respect to those human drugs that are biological products as defined in, and subject to licensing under, section 351 of the Public Health Service Act, as amended (42 U.S.C. 262) and the regulations thereunder, 42 CFR Part 73.

2. This authority shall be exercised in accordance with the attached Memorandum of Understanding between the Commissioner of Food and Drugs, and the Director, National Institutes of Health, which memorandum sets forth with particularity the functions to be undertaken by each agency.

3. Any prior delegation, statement of organization, functions and delegations of authority, or chapter of the Department of Health, Education, and Welfare Organization Manual inconsistent with this delegation or the attached Memorandum of Understanding is hereby superseded to the extent of such inconsistency.

4. The authority delegated in paragraph 1, other than the authority to promulgate regulations, may be redelgated as, in the judgment of the Commissioner of Food and Drugs or the Director, National Institutes of Health, may be necessary or advisable for the effective administration of such authority by them.

Effective date. This redelegation of authority shall be effective immediately.

Dated: February 18, 1972.

MERLIN K. DUVAL,
Assistant Secretary for Health and Scientific Affairs.

Memorandum of understanding between the Food and Drug Administration and the National Institutes of Health concerning authority to enforce applicable provisions of the Federal Food, Drug, and Cosmetic Act with respect to human drugs which are biological products.

Background. Every virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product applicable to the prevention, treatment, or cure of diseases or injuries of man (henceforth referred to as biological products) is subject to the licensing provisions of section 351 of the Public Health Service Act enforced by the Division of Biologics Standards (henceforth referred to as DBS) of the National Institutes of Health. These biological products are also human "drugs" as that word is defined under the Federal Food, Drug, and Cosmetic Act enforced by the Food and Drug Administration (henceforth referred to as FDA). Section 951 of the Public Health Service Act contains a statement indicating that "nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act." Section 902 (c) of the Federal Food, Drug, and Cosmetic Act contains a comparable statement with respect to its effect on the Public Health Service Act. Biological products and the manufacturers of such products are therefore subject to both section 351 of the Public

Health Service Act and the human drug provisions of the Federal Food, Drug, and Cosmetic Act.

Responsibility for the enforcement of these statutory provisions is vested by law in the Secretary of Health, Education, and Welfare. With respect to section 351 of the Public Health Service Act, this authority, except for the revocation of licenses, has been delegated to the Assistant Secretary for Health and Scientific Affairs, who in turn has made a delegation to the Director, National Institutes of Health. The Secretary's authority over biological products pursuant to the Federal Food, Drug, and Cosmetic Act has contemporaneously with this memorandum been delegated concurrently to the Comissioner of Food and Drugs and to the Director, National Institutes of Health.

Purpose. The purpose of this Memorandum of Understanding is to establish the Department's policy to be followed by FDA and DBS concerning authority to enforce provisions of the Federal Food, Drug, and Cosmetic Act with respect to biological products which will foster the utmost public protection.

Agreement. It is agreed by both agencies that:

1. DBS, in addition to establishing standards designed to insure the continued safety, purity and potency of biological products pursuant to section 351 of the Public Health Services Act, has primary responsibility for enforcing all applicable provisions of the Federal Food, Drug, and Cosmetic Act with respect to a biological product, except for sections 302 and 304 of that Act.

2. In emergency situations involving protection of the public against a biological product which may be dangerous to life or health that cannot adequately be handled through section 351, DBS will request FDA to take appropriate enforcement action to remove the product from the market.

3. FDA will not enforce any provisions of the Federal Food, Drug, and Cosmetic Act with respect to a biological product unless requested to do so by DBS.

4. If either agency, through inspection or otherwise, becomes aware of any information which indicates that a drug subject to the jurisdiction of the other agency may be in violation of the law, it will report that information to the other agency.

5. Any complaints or reports received by either agency with respect to a drug subject to the jurisdiction of the other agency will be reported to that agency.

6. All regulations promulgated by FDA under the provisions of the Federal Food, Drug, and Cosmetic Act with respect to all human drugs will be applicable to biological products. Regulations issued under the authority of the Federal Food, Drug, and Cosmetic Act pertaining only to human drugs which are biological products will be promulgated by DBS after approval of FDA.

7. DBS and FDA will each appoint one liaison representative and one alternate to facilitate carrying out the above provisions.

Dated: February 18, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

Dated: February 18, 1972.

ROBERT Q. MARSTON,
Director.
National Institutes of Health.

[FR Doc. 72-2769 Filed 2-24-72; 8:49 am]

THE PRESIDENT'S SUMMIT TALKS

Mr. McGEE. Mr. President, there may be a tendency on the part of many Americans to expect more of the President's summit talks than will be apparent to most of us once the President returns to the United States and reports to us the results of this historic event. There may be a tendency on the part of many to write off the effort as being all for naught.

However, I would warn those individuals not to expect anything of a spectacular nature to be announced. At least it will not be spectacular on the surface. There are so many subtleties involved in a venture of this nature by the very fact that it happened at all. The opening of dialog between the United States and the People's Republic of China has already had a spectacular impact on the rest of the world and certainly will have an impact on the future course of world politics.

This morning's Washington Post contains an excellent analysis of what is really involved in the summit talks between the President and the Chinese leaders. The column, written by Chalmers M. Roberts, sets the President's trip in the proper perspective.

I ask unanimous consent that Mr. Robert's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"THE SPIRIT OF PEKING"—ANSWERING SOME QUESTIONS; A LOOK BEHIND THE "MYSTERIOUS EAST" SYNDROME AND THE BIG TV SPECTACULAR AT SOME OF THE LONG-TERM POSSIBILITIES

(By Chalmers M. Roberts)

Vietnam was the first war to enter the American living room, thanks to television. Now from China, day and night, we see diplomacy in living color. Deeds on the battlefield, however, seem more finite and easier to fathom than words in the conference room. How does one contemplate Mao Tse-tung, Richard Nixon, Chou En-Lai and Henry Kissinger together? Gymnasts and dancers, farms and factories, chopsticks and tea, the Great Wall and the Forbidden City all add to the confusion as we watch the glowing tube.

It is indeed a historic event as we have been told again and again by the TV commentators, many of whom seem to have fallen into the "mysterious East" syndrome. The President has indulged in his usual hyperbole: "What we do here can change the world." Offstage, we are told, there are grumbles in Moscow and Hanoi and anxiety in Tokyo, New Delhi and elsewhere.

The China summit is a grand spectacle. It *will* have world-wide effects. Already the term "spirit of Peking" is on the airwaves. What can one make of it all at this distance?

History is a series of seemingly disjointed events largely the work of man. Historians have the luxury of hindsight. They examine the public record, seek out the hidden notes and memoirs, place the events in the context of their age and usually end up with a grand sweep of national or international relationships. It is a long and arduous process. Yet even when it is done someone will come along to challenge the result. George Washington was debunked earlier in this century. Currently the revisionist historians are telling us we have been wrong about what has occurred since World War II.

Television, however, is instant, here and now. You see it and then it dissolves. There is an inevitable dichotomy betewen this instant history on the screen and the long term meaning of the President's trip to China. One needs a guide en route. Perhaps this will help.

Q. Why is this meeting being held?

A. Because it serves a purpose for Mr. Nixon and because it serves a purpose for Mao and Chou. A central Nixon purpose these past three years has been to lower the American profile abroad, to reposition the United States, to disengage from Vietnam, but all without diminishing the American role in the world. This requires, among other things, a relatively stable working relationship with China.

Q. And if he achieves that?

A. It can be pictured as removing the Chinese threat to the rest of Asia, the threat used as a major justification for Vietnam. In Peking the President has publicly absolved China, in his phrase, from seeking to stretch out its hand to "rule the world." A new stable relationship can be pictured as fulfilling Mr. Nixon's campaign pledge to "win the peace in the Pacific." In turn, for many Americans it will reduce Vietnam to the status of a minor affair. It will demonstrate that Mr. Nixon has moved "from an era of confrontation to an era of negotiation," one of his stated aims.

Q. And for the Chinese?

A. A central Chinese purpose of the summit must surely be to help protect itself from its hostile neighbor, the Soviet Union, which has stationed nearly a million men on its long border with China.

Q. How does the summit do this?

A. By playing the oldest diplomatic game in the world, balance of power politics. For a long time the Kremlin has fathered the American image of China as a nation led by dangerous men willing to risk a nuclear war. Because Americans were isolated from China, we had only Moscow's view to abet our imagination and beliefs. Now Mao and Chou have chosen to break out of that isolation and to deny the Moscow view by finding a live-and-let-live relationship with America. Of late Moscow has begun to worry about Chinese-American "collusion" against Russia. Mao and Chou doubtless are happy to keep that worry active in the Kremlin even while denying any such collusion.

Q. Such "collusion" seems ridiculous. Why should Moscow worry about it?

A. If you were in the Kremlin could you be sure where the Peking summit will lead? Who thought President Truman would go to war in Korea? And who in the Kremlin can forget how quickly Germany and Japan changed from being enemies to being America's allies? The Russians, like the Chinese, take a long view of history. It is a reasonable assumption that Moscow will be less rather than more likely, after the Peking summit, to strike a blow at China. A new balance of power will be in play.

Q. But what does this do to Soviet relations with the United States? After all, the President is going to Moscow in May.

A. That's a hard one. There has been some loose talk in Washington that a successful Peking trip would put pressure on Moscow to come to terms on such issues as strategic arms limitation, the Middle East and East-West troop reductions in Europe. History indicates, however, the opposite is more likely. The Kremlin may get its back up if it really believes there is a new Chinese-American collusion aimed at the Soviet Union.

Q. But hasn't Mr. Nixon said he was not trying to play Moscow off against Peking or Peking against Moscow?

A. Yes, he said that and he will repeat it in Moscow. But many even in his own administration believe that is exactly what he is doing. The indications are that many in Moscow believe it, too. Mao and Chou probably also believe it. What people think is a fact often is more important than the fact itself. Divide and conquer is an old rule of international relations. Mr. Nixon is not out to "conquer" anybody, least of all the Soviet Union or China. But he and Kissinger are playing balance of power politics. Don't let anybody kid you about that. Given the kind of world we live in, it isn't necessarily bad, either.

Q. You said a central Chinese purpose for the summit was to protect itself from the Russians. Is that the only purpose in making up with the Americans?

A. No. Chinese-American relations for long have been impaled on the issue of Taiwan. China says the United States is occupying one of its provinces, the island held by Chiang Kai-shek. The United States has a mutual defense pact with Chiang's China. For years Washington said Chiang was the true ruler of all of China. But Mr. Nixon has retreated from that, in effect conceding that Chiang speaks only for Taiwan. Most important, the President has said the issue between Mao and Chiang should be settled by the Chinese themselves. That is close to what Peking wants. And it is another evidence of the Nixon retrenchment policy. Peking recognized that and undoubtedly it was a major reason why the President was invited to China.

Q. Then it has been the United States, not China, that has changed its policy?

A. Basically, yes. Mao and Chou, seeing this and worrying about the Russians, have ended China's recent isolationism and reentered the international diplomatic arena. They saw their opportunity and seized it in self-interest. Mr. Nixon acted in a way to encourage that.

Q. So when the President's trip to China is over and the official communique on the talks has been issued it will be clear that a new day has dawned?

A. No. The Chinese-American problem is too complex. For one thing, Mr. Nixon is not about to renounce the treaty with Chiang. There can be no formal diplomatic relations until the Taiwan issue is fully resolved. But clever men, and those meeting in Peking all are clever, can find a way to move in that direction if each side decides that is in its own interest. Probably this was outlined during the earlier Kissinger visits to Peking.

Q. That what is the test as to whether this has been a useful summit?

A. The way the wind blows. Note specifically the mechanism the two countries agree on to carry on from the summit. A dialogue began before the summit and continued there. Its continuation is vital and the modalities of how that is to be done should tell us something. Watch for how the Chinese handle the joint announcement. If the words seem vague, as they may be, read the experts on what they mean, reporters such as The Washington Post's Stanley Karnow now in China. But don't jump to conclusions.

Q. What about that "spirit of Peking"?

A. Spirits are evanescent, as were the "spirit of Geneva" in 1955, the "spirit of Camp David" in 1959 and "the spirit of Hollybush" in 1967. Yet those summits served a purpose even though they resolved no specific problems at the moment. The China summit probably will fall into that category rather than in the disastrous mood of the Kennedy-Khrushchev summit of 1961 or the Paris summit of 1960 that collapsed before it began.

Q. You're leaving a rather ragged edge to this summit, then?

A. Yes, and deliberately so. It won't be over when the TV coverage ends. There are too many uncertainties, in China, in the United States, elsewhere. At the most we should get a sense of direction. Remember that diplomats and journalists never suffer from technological unemployment. Both will be dissecting the China summit for years. And then will come the historians. Take a long view of history. You've had a glimpse of it.

THIEU DETERMINES U.S. POLICY IN VIETNAM

Mr. CHURCH. Mr. President, the chairman of the Business Executives Move for Vietnam Peace and New National Priorities, Mr. Henry E. Niles, recently sent out a letter concerning America's present policy and position in Indochina. Mr. Niles aptly asks:

Who determines U.S. foreign policy?

In light of President Nixon's support of the Saigon regime, Mr. Niles' answer is on target:

President Nixon has given President Thieu what is, in effect, a veto of U.S. foreign policy concerning Vietnam.

I ask unanimous consent that Mr. Niles open letter to all Senators be printed in the RECORD.

There being no objection, the open letter was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO ALL SENATORS

FEBRUARY 16, 1972.

MY DEAR SENATOR: Who determines U.S. foreign policy? President Nixon or Thieu or the U.S. Senate?

President Nixon last week surrendered. He surrendered the sovereignty of the United States to determine when and under what conditions the U.S. troops will be withdrawn from Vietnam. He stated that "under no circumstances are we going to make any further proposals without consultation with and agreement with the Government of South Vietnam." Thus President Nixon has given President Thieu what is, in effect, a veto of U.S. foreign policy concerning Vietnam.

The President should put U.S. and world interests ahead of continuing support for Thieu. We are not defeated by our foes but our President has surrendered our right to self-determination to President Thieu.

On February 10th Thieu declared that South Vietnam would make no further peace concessions despite the assertion of Secretary of State William P. Rogers that the allied position was flexible. Thieu said that if Mr. Rogers meant what he said "it is a serious violation of Vietnamese sovereignty. I will talk with Mr. Nixon about it." Thieu repeated his "Four No's"—no land concessions, no Communist political parties in South Vietnam, no neutrality, and no coalition. He is arrogantly demanding U.S. military aid to support his position.

A White House spokesman states that those who criticize the President's Vietnam Peace Proposals are consciously aiding the enemy and prolonging the war. Actually, the critics advocate a prompt ending of the war, subject only to the return of the POW's. It is President Nixon who is continuing the war by his subservience to President Thieu.

We hope that the Senate will act effectively against President Nixon's surrender of power to Thieu and that it will vote strong measures to force an end to the war subject only to the return of the POW's.

Sincerely,

HENRY E. NILES,
Chairman.

LEGISLATIVE SUCCESSES OF SENATOR SCOTT

Mr. BOGGS. Mr. President, the Evening Journal of Wilmington, Del., recently published a column which recounts the successes of our distinguished minority leader, Senator HUGH SCOTT, of Pennsylvania. The column was written by Nick Thimmesch and syndicated by Newsday.

In his article, Mr. Thimmesch praises Senator SCOTT for his successes in welding together a unified Republican position in the Senate. He tells how Senator SCOTT "shepherded his Republican flock to a near perfect rate of support on bills where the President took a position."

Mr. President, I know that many Senators would agree with this column and who would enjoy reading it. For that reason, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Evening Journal, Feb. 19, 1972]

SENATE RESPECTS HIM—SCOTT'S COOPERATION GENUINE

(By Nick Thimmesch)

WASHINGTON.—Youth gets encouraged and cheered so much these days that it's a delight to discover a senior citizen scoring big and being praised for it. That's what's happening to Pennsylvania Sen. Hugh Scott, who, at 72, has been around as long as this century and is now roundly saluted for his performance as Senate minority leader.

President Nixon, never part of Scott's liberal wing of the GOP, is eminently pleased with the high level of support he's getting from the Senate's 45 Republicans and expresses his gratitude to Scott regularly. GOP Senate liberals and conservatives testify that Scott has unified them like never before. And majority Leader Mike Mansfield willingly praises Scott for his co-operation from across the aisle.

All this amounts to an era of good feeling for Scott, who has been in Congress since 1940, and also recognition for his undramatic wisdom and experience—qualities which don't always sell well in the current political market.

A few seasons back, the President wasn't sure of support from his own Republican senators; Scott wasn't sure he could overcome conservative opposition to his re-election as minority leader; and some senators at both ends of the GOP spectrum were almost beserk in public rage with Mr. Nixon. The nominations of Judges Clement Haynsworth and Harrold Carswell, the Cambodian invasion and the uncertain direction of the Administration had much to do with this, and Scott had to roll with the punches.

In the last seven months, however, the Administration's course is clearer, and Scott, using his painfully earned skills, shepherded his Republican flock to a near perfect rate of support on bills where the President took a position. The most notable win occurred when the Republicans chased the Democrats right out of the Senate with their scheme for campaign fund raising by a $1 income tax checkoff.

Scott helped get Mr. Nixon's most recent conservative Supreme Court nominees overwhelming support by GOP senators. Lewis Powell got all Republican Senate votes, and William Rehnquist lost only the votes of Sens. Edward Brooke, Clifford Case and Jacob Javits. Even the controversial nominee for secretary of agriculture, Earl Butz, got all but four Republican votes for his confirmation.

So all's well for the moment with Scott. "The President's image with Republican senators has greatly improved since he took the initiatives on China, the Soviets and the economy," Scott explains. "Republicans have stopped bellyaching that they have nothing to campaign on this year.

"The President's trips put a seeing eye in both countries on the dangers in Asia and give opportunity for all parties to have gradual withdrawal of military aid in Asia. The Soviets send North Vietnam 80 per cent of their military equipment, interestingly enough, through China, and China provides the rest. Anyway, the public feels Mr. Nixon makes pleasing moves for peace, and they think he's moved on the economy, too.

"I doubt very much that Democrats will

attack his trips unless they come out adversely. They won't know what was said in those meetings, and they better have meritorious criticism if they are going to speak out. President Kennedy had a complete flop in his Vienna summit with Nikita Khrushchev and we kept pretty quiet about that."

Scott isn't a flamboyant leader like his predecessor, the late Sen. Everett Dirksen, but he's a pretty good overseer. He is irked over the gross absenteeism of Democratic presidential aspirants and can deliver sarcastic attacks. In a heated exchange with Oklahoma's Fred Harris over the campaign checkoff proposal, Scott noted that only a handful of senators were around for the final debate on Butz, and cracked: "You get a far bigger crowd for the sweet smell of green money . . . you're partisan without principle."

Where Dirksen pretty much ran the whole GOP show, Scott delegates leadership duties to other Republican senators, and allows younger senators to serve as floor managers for legislation. He's also arranged with Mansfield for "morning" speeches to be cut from a 15-minute limit to 3 minutes, and for all "extraneous material" trivia to be put in the record at the end of the day, thus expediting Senate business. By a 21–17 vote, he established the rule that ranking (senior) senators can only serve on one committee, and took himself and two other GOP leaders (Sens. Robert Griffin and John Sherman Cooper) off of committees. The seniority reform didn't set well with Sen. Javits.

"I enjoy being the pastor of the flock," Scott says. There are no atheists here now, but some backsliders don't go to church every Sunday. We're a happier flock. The liberals don't want to embarrass me, and the conservatives are respectful. Many of the ideas liberal and moderate Republicans generated in the 1966–68 period have been picked up by the President, and that's one reason we have such unity. I don't expect 100 per cent because I, myself have never been 100 per cent for anything or anybody in politics. When I am, I should be voted out of office."

FRAUD IN WELFARE PAYMENTS AND FOOD STAMPS

Mr. BYRD of Virginia. Mr. President, the Colorado Springs Sun of November 8, 1971, included a fine news article and column based on the experiences of a reporter who easily obtained welfare payments and food stamps by fraudulent means.

The reporter, Peggy Schultz, received a $175 welfare check and $42 worth of food stamps, plus medicaid authorization cards for herself and two fictitious children.

In a column accompanying the story by Peggy Schultz, Bill Woestendiek, editor and publisher of the Sun, points out that the ease with which the reporter obtained welfare support illegally demonstrates the laxity of administration in our welfare programs.

The administration is urging Congress to adopt a revision of welfare laws which would double the number of persons on welfare, add more than $5 billion to the annual cost of the programs and add 80,000 employees to the Department of Health, Education, and Welfare to administer it. It seems to me that if the present program is operated in as lax a manner as the reporter in the Colorado Springs Sun indicates, then an expanded program would be subject to even greater abuse.

I feel strongly that our welfare system must be changed, and that the administration of the program must be tightened. But before we adopt an expanded program, we must be sure that it can be efficiently administered and that it represents a real improvement.

I ask unanimous consent that the column by Bill Woestendiek, entitled "Thinking Out Loud," and the article by Peggy Schultz, entitled "Reporter Applies for Welfare and Gets It," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THINKING OUT LOUD

(By Bill Woestendiek)

Everyone should be disturbed by Sun Reporter Peggy Schultz's story on this page today.

Peggy proved, altogether too easily, how easy it is to cheat on welfare. And if she can do it that easily, guess how many dishonest people are pocketing welfare checks every month.

Peggy walked in and told lies. She lied about her name, about her marriage, about her children, about her home, about her address, about her bank account, about her Social Security number. Any kind of check on her would have shown welfare authorities that she was a fraud.

Not only did welfare apparently check nothing, but Peggy was given $42 worth of food stamps, told that her nonexistent children would receive free Christmas presents, and then received the first of her $175 checks that presumably would continue to come to her—except for the fact she, of course, is not going to accept them.

The food stamps and the check will be returned to welfare this morning. Peggy proved the point that so many have alleged and that some welfare officials have denied; there is cheating going on in welfare in our town.

If a young girl reporter can get away with cheating the government so easily, think of what those who work at defrauding the government must be doing with the taxpayers money. And it is an additional commentary on our system that so many people can make more money by cheating on welfare than by doing an honest day's work.

As Reporter Schultz writes in her first-person description of how she did it, "almost anyone can get on welfare if he plays his cards right."

That situation has to be corrected. It's understandable that soft-hearted welfare workers might fall for any story, but it's unforgivable that the Welfare Department doesn't run more thorough checks on its applicants.

It's essential that the thousands of needy who deserve welfare assistance for legitimate reasons should get it. But those who are "working welfare" for handouts should not.

The Sun and Reporter Schultz did not go through this little deception to embarrass anyone, but to show dramatically how the welfare program is abused and to prove how easy it is to abuse it. Hopefully, it will lead to a tightening of the rules, closer checking on applicants, and put a halt to the giving away of money to people who do not deserve it. Certainly, there are many, many people and institutions that badly need money, far too many for our government to be giving it away to deadbeats or anyone else who has found it easier to live off welfare than to go to work.

Another strange aspect of the welfare program is the conflicting testimony one gets here and around the country. Some people in desperate straits seem to get the runaround and have to wait for days or to come back at another time.

As expressed in a recent article in Time Magazine, "rage, hysteria, and tears are all staples of the U.S. welfare system . . . in countless cities around the country welfare is a maddening mix of compassion and callous bureaucracy, penny-pinching and shocking waste—the shame of a nation."

President Richard Nixon described the American way of welfare in his State of the Union message as a "monstrous, consuming outrage."

The welfare program in Colorado Springs is better than in many cities, but it obviously is far from what it ought to be. Certainly, some form of assistance program is necessary throughout our nation, but it should be a humanitarian, successful program. Our present system, while it helps many, has to be considered a failure.

REPORT APPLIES FOR WELFARE AND GETS IT

(By Peggy Schultz)

I received a $175 welfare check this week. The check was mailed to an address where I don't live to help support two children I don't have.

The check came less than a week after my El Paso County Department of Public Welfare caseworker didn't visit the house where I don't live—even though such an investigative visit is required by federal regulation.

I also have $42 worth of food stamps and Medicaid authorization cards for myself and the two fictitious tots. The check, stamps and cards aren't made out in my name, however. I lied about that too.

Almost anyone can get on welfare if he plays his cards right. The rules are fairly simple: have a good imagination, convincing personality and hope for a cooperative social worker.

I applied with thirteen other persons on a recent Tuesday morning and went through the new group intake process. It took a good four hours to complete the requirements, but it was worth the trouble. I was immediately handed papers to qualify me for the food stamps. And I was able to pick these up just an hour after leaving the welfare office.

Applying for welfare was neither degrading nor unpleasant. A cheerful social worker greeted us in the waiting room of the El Paso County Welfare Department's family services building at 310 S. Cascade Ave. We were taken to a yellow room which had walls decorated with posters bearing inspiring phrases like "people are the most important things in the world" and "love and happiness."

"We won't mention your names out loud unless you volunteer them," we were assured by a social worker who explained that group intake, although impersonal, speeded things up appreciably. However, several names were mentioned by the two social workers present.

Each person or family was handed a file which included many papers to be filled out with name, address, income, number of children, insurance, assets and other essential information which the welfare people would supposedly use in determining eligibility.

It was emphasized that information should pertain only to "what circumstances are today." At no time was verification of any kind asked for, although the two social workers directing the session said several files would be completely verified item by item.

After this phase there was a break and everyone was provided free coffee. At this time the plight of the some of applicants was revealed.

There was a furniture salesman who had just come out of a hospital and would be going back for more treatment. A young and attractive mother was just getting a divorce and her husband was sending no money for their children.

A girl who'd just come from Georgia lacked child support money also. She said she's been a hairdresser and that the welfare people had told her she should return to this field. However, she didn't want to and hoped she might go through college on welfare money.

Another woman had been working as a bookkeeper for the University of Alaska but could find no related work in Colorado Springs. She said she'd been looking hard. Her husband had left her years ago and she had no idea where he was.

Obviously, there were those who just wanted a handout, but most, it seemed needed aid for legitimate reasons.

After the break we were given another file. We were asked to sign our name as we ordinarily do. There was a special form for authorization of an attorney to get child support money from a husband if he was not providing it. And we had to indicate whether we wanted special social services such as dental assistance, help in finding a job or being trained for one, additional recreation, instruction in learning to be a single parent.

One of the social workers remarked, "It takes me 20 hours of paper work to give somebody $5. She said it would take her one full day to fill out all the forms for each person applying for AFDC (Aid to Families with Dependent Children, commonly known as ADC).

After all the papers were explained and filled out, there was a long wait for applicants while the two social workers appraised the answers just supplied. Then, they met with each person and told whether or not he or she qualified.

We were advised that if anyone was rejected the social worker would be glad to help with their personal problems anyway. During the time I was waiting for my verdict only one girl was refused and she said this was because she had a job.

After a two-hour wait I was called into a cubbyhole office by a reassuring and sympathetic social worker. She asked about my husband and I said he had deserted me unexpectedly. Next, she asked if I had looked for work and I gave what I understood to be the usual line about having looked, found nothing, and having to pay a babysitter if I did find something. She made some quick calculations.

"You should have little trouble. We should be sending you a check for $175 in about ten days."

Then she asked if I was interested in food stamps and I said yes. She proceeded to fill out the necessary forms. I did have to sign a form stating that if my situation changed in any way I would immediately contact the welfare people.

I was told that the only other thing I would have to do would be to schedule a visit with a social worker in my home because this is a federal requirement.

On leaving I went to the food stamp center and was given my stamps with no questions asked. I paid 75 cents for $42 worth. I was told casually to sign them but was not forced to do so at the time.

The day of the visit by the social worker I received a letter in my mailbox stating that my application had been approved effective November 1971.

For some reason, the social worker was unable to visit me as I had understood was necessary. I called her about it and she said she would not bother unless I particularly wanted her to come. I said no but accepted an offer for free Christmas presents for my children.

About a week after completing my application for welfare, a check for $175 arrived.

DELAY OF COMMUNIST OFFENSIVE IN VIETNAM

Mr. McGEE. Mr. President, in this morning's Washington Post, columnists Rowland Evans and Robert Novak offered an excellent analysis as to why the much-publicized potential Communist offensive in South Vietnam has been unable to get off the ground thus far.

Both columnists also warn us that even if a spectacular Communist offensive of limited duration is brought off, it should not delude us into believing that Vietnamization has not been a success, and that, therefore, now is the time to abandon the course of responsible withdrawal from Indochina the President has pursued the past 3 years.

Tied to any Communist offensive is the belief on Hanoi's part that we are so wearied by this war that we would accept a settlement completely on their terms—that being a complete dismantling of the South Vietnamese Government, paving the way for a complete takeover on the part of the North Vietnamese.

I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WAITING FOR TET OFFENSIVE

(By Rowland Evans and Robert Novak)

Delayed beyond President Nixon's arrival in Peking by sluggish logistical preparations and relentless U.S. bombing, the still-pending Communist winter offensive in Vietnam is now clearly aimed at one political goal: Forcing U.S. acceptance of its new and suddenly escalated asking price for peace.

A largely overlooked clarification of its latest negotiating proposals strips bare the fact that Hanoi now demands nothing less than total dismantling of South Vietnam's governmental apparatus. Scarcely by coincidence, this diplomatic escalation is accompanied by preparations for the biggest Communist offensive since the fateful Tet campaign of 1968.

This is the classic Communist technique of fight-and-talk. In the view of experts here, the Hanoi politburo would not dare demand so much in Paris if it did not anticipate gains on the field of battle. Indeed, North Vietnam hopes such military success may help elect a Democratic president who would probably be more receptive to their proposals than Mr. Nixon.

Involved here is point two in the revised seven-point peace plan submitted by Vietcong negotiators at Paris Feb. 2. Besides requiring the immediate resignation of President Nguyen Van Thieu, point two insists that Saigon "disband at once its machine of oppression and constraint against the people."

This, in turn, was clarified Feb. 3 by Nham Dan, the authoritative Communist party daily in Hanoi. In a remarkable editorial which has received all too little attention here, Nhan Dan said: "The Saigon administration must end its bellicose policy, and the oppressive and coercive apparatus in South Vietnam must be abolished immediately."

That apparatus, acocrding to the editorial, consists of the following: "Over a million puppet troops, civil guards, spies and (a) system of puppet administration and secret agencies from the central level in Saigon down to every village and hamlet."

The meaning is unmistakable. Setting a date certain for withdrawal of U.S. military forces, long demanded by American war critics, is no longer enough to bring peace and release U.S. prisoners. Nor is the ouster of Thieu. Instead, Hanoi says for the first time it wants Saigon's army and police disbanded and its national administrative network destroyed *before* the fighting stops.

The audacious public escalation beyond anything demanded by the Communists during now-concluded secret negotiations in Paris is indigestible even for moderate doves in the United States, much less the President. Thus, Hanoi knows that only some significant Communist battlefield success—exceedingly rare since 1968—could generate congressional and press demands for acceptance of these terms.

This intent always eclipsed the highly publicized motive of embarrassing Mr. Nixon's arrival in Peking as the principal political goal of the 1972 Tet offensive, in the opinion of many analysts—a view gaining credence how that the President has gone to China without any accompanying Communist salute from the Vietnam front.

But even if Hanoi had wanted its new offensive to coincide with the China visit, it lacked the capability.

Although a few U.S. policymakers are skeptical, the consensus among those military and civilian officials is that the bombing jumbled Hanoi's military timetable. Besides this, present plans for still more bombing may mean still more delay.

But nobody in authority here doubts that, however delayed, the blow will come—probably in the Central Highlands. It is inconceivable that Hanoi would undertake the agonizing labor of sending south heavy reinforcements and supplies without intending to make some noise. Indeed, the Communist artillery buildup in the Central Highlands continues at this writing.

Militarily, the situation is not greatly different from a month ago. Barring a calamitous and wholly unexpected collapse of South Vietnamese troops—the 1972 Tet offensive cannot score strategic gains—but temporary tactical successes in the Central Highlands may reap great political benefits among war-weary Americans, perhaps including pressure here for acceptance of Hanoi's ever-clearer demands requiring total capitulation by South Vietnam.

A WORLD STATESMAN

Mr. DOLE. Mr. President, an editorial published recently in a Kansas newspaper provides great insight on one of the most important undertakings in our history. The newspaper, the Emporia Gazette, carried the editorial written by W. L. White, son of the famous late William Allen White. His writing concerns itself with the true meaning of President Nixon's current trip to mainland China.

I believe that the editorial is in keeping with the long standing tradition of journalistic excellence for which the Emporia Gazette and the White family have been renowned during the last several decades. This latest message from Mr. White should be of interest to each Member of this body, as it should be to every American.

I have always known admiration for Mr. White's keen ability to shed the light of truth on complex matters of national and international importance. He has once again demonstrated this skill in his editorial about President Nixon's journey in pursuit of peace.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A WORLD STATESMAN

This morning this editor went back to reporting when just as day dawned (7 o'clock) via shortwave radio he got the President's speech coming live from the hall where the Chinese had staged his welcoming banquet. This speech was superb. The Chinese had, up to this point, played the Nixon visit down. It was barely mentioned in the Chinese press and on their radio. No crowds lined the boulevard from the airport to the guest house as the visitors passed.

It was not quite low-key enough to be insulting, but observers compared it to the Peking welcome given the head of the Pakistan government a few weeks back, when he came to lick his wounds after his defeat in the war with India.

But last night (or this morning) our President's speech pulled everything alive. Before he came there had been some question as to whether Chairman Mao would see him at all—might only see him on his way home from China. But, as it developed, Mao saw him—first, for an hour immediately after he came, and then for a second hour a few hours later.

Now this is important. It means that the President has impressed the Chinese as being not just an American politician looking for votes at home, but as a world leader of deep sincerity and with something to say. Of course they were surprised—and pleased.

This sincerity came through in the speech which I heard this morning and which you will read this afternoon. It was not so much its hard content as its tone. It has deeply impressed the outside world. West German comment on it is that President Nixon, in this Peking summit for which he asked, has staged the summit to end all summits.

Up to now this editor has been mistrustful about this summit—fearful that he might start trading which would sell our old friends in the Pacific down the river—South Vietnam, Taiwan, Japan. We are now delighted to change our mind: we were wrong. It was a noble and inspiring speech—just what needed to be said, and it laid the basis for communication which can produce peace.

Richard Nixon has stepped into his stride as a world statesman of the first rank.

VICE PRESIDENT AGNEW ADDRESSES THE NATIONAL GOVERNORS' CONFERENCE

Mr. CURTIS. Mr. President, on Wednesday our distinguished Vice President addressed the opening session of the National Governors' Conference.

I found the Vice President's remarks to be a profound and highly important analysis of the role of the Federal Government in providing services and what has gone wrong in that process in our country today.

I think the Vice President has hit the target, as he so often does, in terms of how we have gone about setting and achieving national domestic priorities, and I am especially in sympathy with his remarks regarding the OEO legal services program.

I ask unanimous consent that the text of the Vice President's address be printed in the RECORD. I hope that each of my colleagues will take the time to read the address if he has not already done so.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE VICE PRESIDENT OF THE UNITED STATES, NATIONAL GOVERNORS' CONFERENCE OPENING SESSION, WASHINGTON, D.C., FEBRUARY 23, 1972

This morning I am pleased to announce another step in the President's continuing effort to improve the intergovernmental comprehensive planning process and the Federal response to regional needs. He has authorized me to invite the seven Governors of the Arkansas-Mississippi Valley area to form a "whole-state" regional commission for their area.

Rather than being restricted to portions of these States, this commission would consist of the entire States of Arkansas, Kansas, Missouri, Oklahoma, Louisiana, Mississippi and Tennessee. It would represent a cooperative Federal-State effort to help solve the economic problems of the region and would operate in a manner similar to other regional commissions now in existence. The commission would function under Title V of the Public Works and Economic Development Act of 1965, as amended until the passage of the Rural Special Revenue Sharing proposal, after which it would operate, as would the other commissions, as a part of that program.

At the same time, the President has asked me to invite the Governors of existing Title V commission States to convert their commissions to a "whole-state" basis. This would allow them to begin planning now for the use of both general and special revenue sharing funds, as well as other grant programs, on a comprehensive statewide basis. The Appalachian Regional Commission, the pioneer of such groups and not a Title V creation, would be an exception in that it would continue to function on a non-"whole-state" basis and regardless of geographic overlap with other regional commissions that may have been converted to a "whole-state" basis.

The President also invites those of you whose States are not presently in a regional commission to consider forming one for the convenience of planning and promotion of interstate projects of specific interest to your regions.

My remarks today may reflect a certain nostalgia for the days when I was privileged to sit in this group as the Governor of Maryland. In those days, I was totally uninhibited by national responsibility and found it relatively easy to identify the Federal Government as the tormentor who was causing many of my frustrations. I might say that that was not exactly an unusual position for a Governor to take at that time—and I would guess that no sudden immunity from such criticism has enveloped Washington since I left this Council.

Now I am faced with the plain fact that I am charged with the task of rectifying intergovernmental deficiencies—or at least with articulating a strong and definitive recommendation for their correction. I have thought long and hard about the specific problems and, in doing so, have come to the conclusion that the general problem too often has been obliterated by intense concentration on specific program intricacies.

In my judgment, we frequently seek solution to our basic difficulties by superimposing a melange of cosmetic detail on a hopelessly unworkable basic concept. This proliferates red tape, which in turn camouflages the problem and makes it nearly impossible for the governmental professionals charged with its solution to cope with it. They are so busy playing with the elaborate machinery—so fascinated with the surveys, studies, interim conferences and verbose reports, replete with meaningless words such as "meaningful," "viable," "relevant" and "interface"—that they actually forget that they are there to solve a problem. In some cases, they even have trouble remembering what the problem is.

So let us consider for a moment the very basic and general problem—achieving the simplest and most efficient delivery of appropriate governmental services to the people and doing so within the framework of our tripartite system.

Fundamentally, there are two obstacles. First, there is a procedural maze to be penetrated and dismantled. This is difficult, but not impossible; and I will discuss it first. But inextricably entangled in the mechanics is the second problem, the deep philosophical questions which are not so easily solved—for example, which level of government can most effectively render a service, how that service should be funded, and whether one level of government is justified in going around or over another to achieve its objective. First, let us consider the easier side of our quandary.

As all of you are aware, one of the basic goals of the Nixon Administration during the past three years has been to make federalism more workable—to simplify and streamline our three-level system that, in the last decade, has begun to stagger under an ever increasing burden of unnecessary complexities.

It is a goal that you, the Governors, as well as elected officials at the county and city levels have seen clearly and have worked with us to achieve.

I believe we have made significant progress. There is every indication that the Congress this year will enact general revenue sharing—the keystone of our efforts to strengthen State and local governments and thus revitalize the Federal system.

But I would suggest to you that now is no time to become overly optimistic or to relax in our efforts to insure that the bill that emerges from the Ways and Means Committee is a strong one. It should, at the very least, write into law the basic principle of revenue sharing that all of us have worked hard and long to achieve.

We are at a point now where details of the bill still are being negotiated and amended. Perhaps, you may find it worth your while during your stay here to express again to Congressional leaders your keen interest in the legislation and in the form it will take.

Lest there be any feeling that enactment of general revenue sharing is a foregone conclusion this year, let me remind you that at this time last year the whole subject was being written off as a dead issue by the media pundits and by many of the leaders in Congress. Only your strongly expressed interest kept the principle of revenue sharing alive.

There is another side to the President's revenue sharing proposals that is just as important as general revenue sharing to our efforts to make government more flexible and locally oriented, but that side has not attracted as much of your attention and enthusiasm. I would recommend that you give it serious consideration in your discussions this morning. I refer to the propcsed improvement in the grant system that we call special revenue sharing.

Let me review briefly what is involved here. Even though you are familiar with many of the details, they will bear repeating.

We went from 44 Federal grant-in-aid programs in 1960 to 530 such programs in 1970, thus bringing chaos out of confusion.

Special revenue sharing, in its simplest form, represents the conversion of more than 130 of these narrow categorical grant programs into six broad areas of national concern, with most of the red tape cut away and with the elimination of the requirement that State and local governments match Federal contributions in order to receive the funds. Also eliminated would be the frustrating, wasteful delays of months and sometimes years now occasioned by the need to obtain advance Federal approval for each grant. And, equally important, the deceptively stricturing maintenance of effort requirement would be abolished. Because of maintenance of effort, many Governors have found themselves locked into programs where actual year-end costs exceeded budgeted costs by two and three hundred percent.

By no stretch of the imagination is this a dismantling of the Federal grant system, as some critics have charged. After all, it affects only one-third of the existing categorical grant programs. It is rather an improvement of the grant system by making it more workable, by leaving at the Federal level those programs which require a national approach, but moving to the State and local levels the resources and authority to administer those programs that can be handled better there than in Washington.

These programs are now languishing in their second year before the Congress. They have much merit; and we feel sure that, with your help, they can be enacted. Again, it may be necessary to compromise on some of the details. But as in general revenue sharing, if we can get the principles enacted we will have scored a major triumph in making government more workable.

In the special revenue sharing program areas, these principles should apply:

Automatic distribution of the funds through a needs based formula.

Conversion of related narrow categorical grants into the special revenue sharing program to give State and local officials the option of changing the programs to best fit their areas.

Elimination of requirements for State and local matching funds as a condition for receiving such aid.

Elimination of requirements for prior Federal plan approval.

These are principles that I know you believe in and can endorse, however you may feel about any particular grant or proposed grouping of grants under special revenue sharing. I urge you again to make those views known to the Congress while you are in Washington.

We are facing some basic decisions, gentlemen. We need to decentralize government in areas where there is a Federal-State clash and the best time to do it is now, while you have an Administration in Washington committed to helping you achieve that objective.

Most of us know that for many years prior to the Nixon Administration, the trend of power in government was all one way—toward Washington. And it has bred some monstrous results.

You may be familiar with some of them, such as:

A neighborhood health center in Louisville spent $50,000 a year just to apply to the various funding authorities which supported it.

One State had 93 people on its payroll who did nothing but apply for Federal education grants.

And remember the 2½ foot high, 56-pound stack of paper that Secretary Romney displayed as a single urban renewal application.

The local welfare worker in Los Angeles who had to wade through 110 pounds of regulations—50 pounds more than the American GI carries into combat—in order to carry out her responsibilities.

And the discovery that in Oakland, California, only fifteen percent of the Federal funds went through the Mayor and other elected government officials.

And I'm sure you have your own home-grown horror stories to match or top these.

The name of the game has been grantsmanship. We are simply trying to change it. The new name is Revenue Sharing—and it will not require gamesmanship of any kind.

Now, let us return to the more vexing problem that I previously mentioned—the matter of clashes between levels of government over such competitive subjects as the allocation of tax resources, or what government provides certain basic services, or the subsidization of private activist groups.

Never in our history has the Federal Government been more generous in sending money to help the States and localities; but never in our history has the Federal Government been more arrogant, insufferable and self-serving than it is in dispensing this largess.

There has been a heavy-handed intrusion into the judgments that Governors and Mayors were elected to make.

Never before has bureaucratic grantsmanship caught Governors and Mayors in such a crushing vise, to the end that they are damned by their political opponents if they do not snatch up every available dollar from Washington, whether or not commitment to that program suits their priorities.

Never, until the Great Society, had the Federal Government funded unelected activists to "defend" their communities against the very officials elected by the majority to protect those communities.

Gentlemen, these are conditions the Nixon Administration would like to correct. Revenue sharing will help, but a grass-roots rejection of the idea that career elitists in Washington should make decisions for every Governor, Mayor and County Official is sorely needed.

The difficulty is that some of these programs, in part, serve a useful purpose. I would like to close by discussing with you one that impacts on all levels of government. This particular program has much to commend it. It's aims are altruistic, and a considerable portion of its performance cannot be faulted. But its accomplishments are good reason to reform it; to be sure that certain inherent weaknesses are corrected before they destroy it. I speak of the OEO Legal Services program, which I have had occasion to examine recently.

There is no doubt that the provision of legal services to the poor is a worthy undertaking. But the problem with the Legal Services program, as now structured, is that it has great potential for political mischief and can be abused so as to frustrate the basic function of government.

Before I proceed to define the hazards, I want to make it very clear to everyone here—every public official, every guest of this Conference, every newsman—that I am very much in favor of providing legal services for the poor. And I am not in the least opposed to suits against governmental agencies to redress grievances. But I am opposed to grinding the processes of government to a halt through dilatory legal maneuvers—especially where the object of the suit is a social result that is more important to the subsidized poverty lawyer than to his clients.

In fairness, I think it is important to note that almost 98 percent of the law suits brought under the Federally-funded Legal Services program concern day-to-day legal problems such as divorce, fraud, contract, eviction and such matters. These are not at issue.

It is in the other two percent of the cases, brought against governmental bodies or agencies, that the potential for mischief-making and frustration of the will of the people—the majority of the people, if you will—is to be found. And may I point out that the majority of the people is a heterogeneous mass consisting, among other groups, of substantial segments of the poor.

Notwithstanding the demonstrated benefits of the Legal Services program, there are some inherent weaknesses which operate to the detriment of the poor and of the total community as well.

Specifically, through the present system we have provided for those few persons who would abuse the program the opportunity to do so.

We have provided a vehicle whereby Federal funds can be used to pursue the political objectives of a few, rather than the legal rights of the poor.

We have provided funds which can be diverted to harass, harangue and thereby prevent duly elected officials from fulfilling their responsibilities through the exercise of the authority vested in them by the electorate—in short, funds which can be used to deprive them of the political power which our system of government bestows through the ballot box.

We have provided for those few who would do so the opportunity to advance their own personal causes, with their client, the poor, receiving at best secondary consideration and at worst merely being the means to finance political ambitions.

I believe, as I know you do, that State and local governments should be fully accountable to every American for their actions or inaction. But just as the poor must be protected from unfair governmental actions, they also must be shielded from those who would misuse worthy programs to their own political ends.

Last year, in his Legal Services Corporation message, the President recognized the very critical need for changing the present system. Unfortunatley, the bill rewritten by Congress was so irresponsibly structured that it could not be accepted. As the President noted at that time, the door was "left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support." An example of such abuse is the recent suit in Massachusetts by one Federal anti-poverty agency against another—both paying their legal fees from the Federal tax dollar.

We continue to support a reasonably structured corporation. The rationale and thrust of the President's message are as appropriate today as they were last year. We must have change, and we must have improvements in the program.

We must seek to provide a system wherein the rights of the poor and the general citizenry can be protected without at the same time preventing State and local governments from carrying out and exercising their legitimate duties and responsibilities.

We must devise a legal and governmental balance to avoid situations where the rights of the majority are violated in our efforts to ensure the rights of a few. I would request that you, the Governors, along with your State and local bar associations, examine the operations of this program within your States and let us have your recommendations for improvement.

One matter that should be considered is the very sensitive, very real problem of the lawyer-client relationship.

A basic quandary of the Legal Services program—both in design and in operation—is that the professional independence of the lawyer, grounded in the Code of Professional Responsibility, is in direct conflict with the concept of a centrally directed and controlled social program. Yet, insofar as the Legal Services program is designed to attack the root causes of poverty through litigation and not merely provide legal representation for individual poor people, it is undeniably a social program of the broadest possible scope. The program has always consisted only of a mechanism with a broad mandate. There have been no policy decisions at the top focusing the program's resources on certain problems or otherwise directing the activities of the individual lawyer.

Because of the requirements of the Code of Professional Responsibility, any restrictions on the activities of individual lawyers would be, and have been, vigorously opposed. Without some kind of control and decisionmaking at the top, however, you have a Federal Government project using public monies for public purposes but without public direction and accountability. Individual lawyers or local project directors make the key decisions on what social causes to pursue as well as the means and degree of pursuit.

This is publicly-funded social activism without public accountability. It perhaps reaches its zenith in the role of the Legal Services lawyer as general spokesman and advocate for the poor as a group on basic community issues. Since there is no organized method, such as polling or election, to determine the interests of the poor on any issue, Federal funds can be used by some lawyers to advocate their own opinion of what is in the best interest of the poor and the community. Thus, the Legal Services program not only moves basic social decision-making from the legislature into the courts; it also changes

the moving force from a public figure to a private one.

It is imperative that this social action orientation be understood and properly dealt with in order to prevent abuses. The utilization of taxpayers' money by non-accountable persons for social purposes requires careful surveillance. Who decides what is in the public interest—whether elected officials, Legal Services lawyers or others with valid claim to some say in the matter—is a serious question which deserves careful analysis. This is not the average client walking into a lawyer's office for representation. This is a social action program.

Again, let me emphasize that I am in no way questioning the right of every American, rich or poor, to access to our legal institutions. What I am saying is that the Legal Services program, with its great potential for impact on our society, requires careful administration. There are 2,000 lawyers with an excess of 60 million dollars of Federal funds carrying out the objectives of this program in every State in the Union. Our societal fabric is carefully woven with the threads of our legal system and careless tampering with that system could unravel the entire structure.

Legal Services lawyers operating without the normal economic constraints, and with the enormous resources of the Federal treasury, must be better supervised by the bar associations and must be held to a higher standard of conduct if the Federal Government is to meet its obligations to its constituents.

The basic issue is the social action direction of the Legal Services concept. If we are to provide Federal funds to attack social problems through litigation by Legal Services lawyers, we must realize that we are turning over the identification of such problems and their solutions to the Legal Services program. And we should require a broader input in the determination of national goals for that program.

Most importantly, I submit it is totally fallacious to argue that nobody may question the activities of these lawyers on grounds that to do so is a breach of the Code of Professional Responsibility. That reasoning completely ignores the social action nature of this program and the fact that it is operated with national programmatic goals. In fact, carried to its logical extreme, this argument when added to the social orientation of the program, effectively endows Legal Services lawyers as the only social reformers beyond public scrutiny.

I have raised questions here that I have not attempted to answer. I don't, in fact, have the answers. But I have seen the danger signals flying from this vehicle that has been created with the very noble and worthwhile objective of serving the interests of the poor; I have seen its potential for great harm and obstruction to the efforts of representative, elected government to do a job for the benefit of the whole community. And I suggest that the program deserves our most careful scrutiny and consideration for improvements.

We should not, we cannot, stand idly by and allow the perversion of our system by a few who would determine on their own what is best for society and work their will at the expense of the taxpayers without ever having to go through the traditional electoral process or in any other manner account for their actions.

The genius of the American Federal system lies in its adaptability to the needs of the people it serves. That is fundamental to our way of life. The Nixon Administration remains dedicated to the goal of keeping our Federal system responsive and effective so that today, as it has for nearly two centuries, that system will continue to provide the greatest good for the greatest number of people.

THE COURSE OF THE BRANDT TREATIES SHOULD BE CORRECTED

Mr. HRUSKA. Mr. President, Americans are closely and somewhat fearfully noting the debate which is now underway in the West German Bundestag over the ratification of Chancellor Willy Brandt's treaties with Russia and Poland. They are a matter of great interest to Members of this body as well as our people. They would appear to involve some basic principles which are of concern to the entire free world in its struggle against the relentless expansionist and imperialistic policies of the Soviet Union.

It is no secret that ever since World War II, Russia has sought to expand its hold on Europe by moving in the direction of West Germany. One of the principal reasons why it has not been successful is the commanding presence of the NATO Alliance and a strong, stable West Germany firmly dedicated to the principles of the free world. It is widely feared that ratification of these treaties will be a major step backward for West Germany and the western alliance. I join in such grave misgivings.

Dealing with the Soviet Union can be a tricky business, and it would appear the treaties now under discussion are molded along familiar lines—filled with concessions to the Communists but containing little in the way of safeguards against further Communist aggression.

The West German Government, like any sovereign nation, certainly possesses the right to modify or abandon its political positions as it sees fit.

Nevertheless, we who have stood side by side with West Germany for the past 25 years have a very personal stake in that country's position insofar as it involves Russian aggression.

To me, any action in which favorable positions are surrendered by a free nation to the Soviet Union and the countries of the Communist bloc is a matter of great concern to the United States. I greatly fear that such will be the net result of the treaties which are now under discussion.

Surrender by West Germany of any of its bargaining power with Russia weakens the entire structure of the free world, of which she has been a stanch and constructive member. While the free world has no Breshnev doctrine providing that any country which is free must remain free, we do believe it is in the interests of every country to stay free. We also believe it is in the interest of every free nation to maintain rather than weaken their psychological, political, legal, moral, economic, and military positions with the Communists.

We of the free world are all in this together and we therefore should have a vital interest in the West German treaties which are proposed for ratification.

In blunt terms, Germany is in acute danger, through its Ostpolitik, of acting against the best interests of the countries of the free world. Its proposed actions not only abandon its own position with regard to the Soviet Union, but it also directly damages the ability of other free nations to maintain their positions.

In the treaties in question, the Bonn government confirms the existing Soviet domination over central and eastern Europe. It confirms the existing regimes, it confirms the Communist system. The West German Government was the first government officially to upgrade the Communist regime in Prague after the Soviet occupation of that country in 1968. And if the treaties with Moscow and Warsaw are ratified, the Bonn Government is said to be planning to conclude a treaty with the Husak regime in Czechoslovakia.

Czech and Slovak peoples at home and in the free world will vigorously oppose and deplore such negotiations which would upgrade the Communists who today dominate their home countries through the force of the Soviet Army. They know the Brandt treaties recognize the illegal and immoral occupation of their country. They see that the times when Germany had agreements with the Communists were disastrous for them and all Europe. Furthermore they see no improvement in economic and technological aid to the Prague regime as the result of such agreement.

The alternative to an isolated Ostpolitik would better appear to be a common, unified policy by the entire Western alliance, such as that suggested by the Christian Democratic Social Union of Germany. This party has suggested a most reasonable position which would give concessions only in return for counter concession—and above all a policy which would reject final recognition of Communist rule over central and eastern European peoples.

In my opinion, the West German Government will be in serious error if it legalizes the Communist domination over Europe. Confirming the rule of Communist dictatorship will bring no advantage to Germany and none to the free world.

Mr. Alfred Dreggert, chairman of the CDU in Hessia, declared in the newspaper Die Welt, on September 8, 1971:

> The aim of an European eastern policy can be only peace and freedom for the whole of Europe; i.e., the preservation of world peace and the regainng of self-determination for all European nations which would mean the end of the infamous Breshnev doctrine.

It is in this spirit that agreements with the Soviet Union should be negotiated. To that end, I concur with the views of the CDU that the United States should provide no support for ratification of the current treaties and should urge the West German Government to renegotiate the current arrangements with the purpose of equalizing the benefits.

SEX DISCRIMINATION IN EDUCATION

Mr. HART. Mr. President, on behalf of the distinguished Senator from Indiana (Mr. BAYH), I ask unanimous consent that a statement by him, accompanied by an article with footnotes, on the subject of sex discrimination in education be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BAYH

The Valparaiso University law review of my own State of Indiana published an edition last year wholly devoted to the question of women and the law. The articles are excellent. I recommend the entire volume as interesting reading for Senators and commend the Valparaiso University Law School for undertaking such a needed study.

One article is particularly relevant to my amendment No. 874 (which I intend to call up early next week), to the Higher Education Act prohibiting sex discrimination in education. The article, written by Pauli Murray, professor of American Studies at Brandeis University, documents sex discrimination in education and employment; it also reviews present and proposed enforcement mechanisms to end sex discrimination.

ECONOMIC AND EDUCATIONAL INEQUALITY BASED ON SEX: AN OVERVIEW

(By Pauli Murray*)

INTRODUCTION

Sexual inequality is the oldest and most intransigent form of discrimination in human culture; indeed, it has provided models for the subordination of other oppressed groups.[1] As in the case of racial bias, the individual's status is defined at birth, and legal and social disabilities are imposed by virtue of visible, permanent physical characteristics which identify one's sex. For many purposes, laws and social customs treat *all* women as a separate class inferior to that of men. At the same time, however, unlike a racial or ethnic minority, women are distributed evenly with men throughout the entire population and share the class characteristics of the men with whom they are closely associated as wives, mothers or daughters. This duality of status partly obscures the pervasiveness of discriminatory treatment which cuts across all classes and affects more than half of the population. Notwithstanding a total impact which is far more extensive than other forms of bias, there is a strong tendency to minimize sex discrimination, to avoid the moral implications of so vast a social injustice and to afford it greater immunity from public condemnation.[2]

The most demonstrable inequality to which millions of working women are subjected is economic discrimination. It lends particular force to the argument that women are an oppressed group because it contributes to the powerlessness to deal adequately with other inequalities. As one writer has put it, "[w]omen have less economic power than men and in a money society personal power is directly related to economic power." [3]

The case for national action in this area was summarized in the report of President Nixon's Task Force on Women's Rights and Responsibilities in April, 1970. The Task Force pointed out that the United States "lags behind other enlightened, and indeed some newly emerging, countries in the role ascribed to women," and the Government should be as seriously concerned with sex discrimination as race discrimination and with women in poverty as men in poverty. Observing "that long-established policies of Federal agencies base their efforts to alleviate poverty and discrimination on the assumption that race discrimination is more inflammatory than sex discrimination," the report declared:

Sex bias takes a greater economic toll than racial bias. The median earnings of white men employed year-round full-time is $7,396, of Negro men $4,777, of white women $4,279, of Negro women $3,194. Women with some college education both white and Negro, earn less than Negro men with 8 years of education.

Women head 1,723,000 impoverished families, Negro males head 820,000. One-quarter of all families headed by white women are in poverty. More than half of all families headed by Negro women are in poverty. Less than a quarter of those headed by Negro males are in poverty. Seven percent of those headed by white males are in poverty.

The unemployment rate is higher among women than men, among girls than boys. More Negro women are unemployed than Negro men, and almost as many white women as white men are unemployed (most women on welfare are not included in the unemployment figures—only those actually seeking employment.)

Unrest, particularly among poor women and college girls, is mounting. Studies show that 39 percent of the rioters in Detroit were women and in Los Angeles 50 percent were women. The proportion of women among the arrestees was 10 and 13 percent respectively. Welfare mothers are using disruptive tactics to demand greater welfare payments. Radical women's groups, some with a philosophy similar to that of the Students for a Democratic Society are mushrooming on college campuses.

Essential justice requires the Federal government to give much greater attention to the elimination of sex discrimination and to the needs of women in poverty.[4]

The Task Force report was issued against a background of growing militancy of women's groups which increasingly have resorted to organized pressures and direct action as well as to administrative and judicial remedies to bring their grievances to the public's attention. The purpose of this article is to highlight some of the economic disparities which have precipitated this development and to focus primarily upon sex inequalities in education, an area integrally related to economic opportunity and which has received relatively little consideration by the law.

ECONOMIC INEQUALITY

Job discrimination became the focal point of renewed feminist protest during the early 1960's. Underlying this upsurge of feminism are the dramatic changes in women's role in the economic system, which sociologist Alice Rossi sees as the chief factor in "the renascence of the women's rights movement . . . after forty years of dormancy." [5] In 1920 women represented only 1 of every 5 workers. By 1970 the 31.2 million working women constituted 38% of the total labor force.[6] Since 1940 they have contributed the greatest share in the growth of the labor market. Available figures from the 1970 census indicate that 43% of all adult women are now either employed or seeking employment compared with 37% in 1960, 34% in 1950 and 23% in 1920. During the 1960's they filled 8.4 million, or nearly two-thirds, of the 13.8 million new jobs which developed.[7]

Moreover, contrary to the lingering stereotype that "woman's place is in the home," married women are a permanent and growing sector of the work force. The Bureau of Labor Statistics reported that for the year ending March, 1969, wives supplied 775,000 and married men 400,000 of the 1.8 million increase in the labor force. The proportion of families in which both the husband and another member of the family (most likely to be the wife) worked jumped from 43% in 1960 to 52% in 1969.[8] Inequality in employment opportunities became increasingly oppressive to growing numbers of women who head families (11% of all families in the United States have female heads) or whose earnings were necessary to lift the family income above the poverty level or raise its standard of living.[9]

A second factor in the growing protest is the head-on collision between the rising expectations of a generation of college-trained women and the continuing climate of opinion in which it is taken for granted by many employers that women will be assigned to inferior positions. This knowledge often comes as a profound shock to a bright young woman who obtains a bachelor's or even master's degree and seeks a job related to her training. She typically experiences the more offensive for what it implies than for the skill involved) [10] and is offered secretarial work while her male counterpart with the same degree is considered for positions in which he can utilize his training and with higher entering pay.

A 1969 survey showed that of 208 companies recruiting at Northwestern University only 63% were considering female graduates.[11] The Women's Bureau of the United States Department of Labor reports that the average monthly starting salaries being offered by 110 business firms to 1970 women college graduates in six fields of interest ranged from $10 to $86 less than those being offered to male college graduates in the same fields.[12]

The legal profession is one of the worst offenders in this respect. Professor James J. White's study [13] of female and male law school graduates in the classes of 1956 through 1965 found that the males make a lot more money than the females. The differential in present income is approximately $1,500 for those in their first year after graduation, and, with the passage of each year, the males increase their lead over the females until they pass off the graph of the class of 1956 with a $17,300 to $9,000 lead and with no substantial appearance of abatement in their rate of gain. In 1964, 9% of the males earned more than $20,000, but only 1% of the females had reached that level; 21% of the males exceeded $14,000, as compared with only 4.1% of the females. The converse is true at the levels below $8,000, where one finds 56.3% of the females but only 33.6% of the males. These figures are not distorted by the inclusion of housewives or others who are not employed full time at a paying job because only those employed full time at a paying job were included.[14]

The income differential could not be accounted for by reference to prestige of law schools attended, class standings, law review participation, type of work sought and type of work performed, since the male and female samples did not differ significantly in these respects.[15] An analysis of the responses of law school officials showed that of 63 deans and placement officers who answered Professor White's questionnaire, 43 believed that discrimination against women law school graduates is "significant," 14 stated that it is "extensive" and only 6 felt that it is "insignificant." [16]

Of the female respondents who replied, 38.2% stated they were "certain" they had been discriminated against; another 9.6% were "almost certain," and 17.6% felt that they were "probably" discriminated against. One question asked how many times an employer had stated to the individual respondent a policy against hiring women as lawyers. The replies indicated that on 1,963 separate occasions such a policy had been stated by potential employers. The combined evidence convinced Professor White "that discrimination against women lawyers by their potential employers is at least a substantial cause, and probably the principal cause, for the income differential which we have observed between men and women." [17]

Traditionally, women are concentrated in jobs which have less prestige or policy-making power than those to which men have access. The Equal Employment Opportunity Commission's (EEOC) first nationwide survey of patterns of employment in American industry based upon official employers' reports for 1966 [18] revealed that while women account for more than two-fifths of all white collar jobs, they hold only one in ten managerial positions and one in seven professional jobs. Conversely, they fill nearly 45%

Footnotes at end of article.

of the lower paying service jobs. The Women's Bureau estimate is even higher: in 1969 women were 59% of all service workers (exclusive of private household employees) compared with 40% in 1940. In 1969, less than 5% of all full time women workers earned over $10,000 per year compared with 35% of all male workers, while 14.4% of women but only 5.7% of men earned less than $3,000.[19]

The pattern does not change significantly in the employment of women by the Federal Government, despite a federal policy of equal employment opportunity without regard to sex which has existed since 1963. Studies by the United States Civil Service Commission show that although women constituted 34% of all full time white collar employees in the federal service in 1967, they filled 62.5% or more of the four lowest grades and only 2.5% or less of the four highest grades.[20] In October, 1969, of the 665,000 women in full time white collar civil service positions (33.4% of the total), 77.8% were in grade levels GS–1 through GS–6, while less than 2% were in GS–12 through GS–18. The average grade level for males was GS–9.6; for females, GS–5.2. In the three-year period 1936–1939, women's share of jobs in grade levels GS–13 and above rose only from 3.5% to 3.8%.[21]

Women in the professions in the United States have not kept pace with women in other countries. In the Soviet Union, for example, women constitute 79% of the physicians, 36% of the lawyers and 32% of the engineers compared with 7%, 3% and 1% for these professions respectively in the United States.[22]

As previously indicated, unemployment rates and the incidence of poverty are consistently higher for women than for men. In 1969, the average rate of unemployment for adult women was 4.7, compared to 2.8 for men. Among Negro women the unemployment rate was 7.8, compared to 5.3 for Negro men. Among Negro teenagers, the unemployment rate for females was 27.1; among males, 21.3.[23]

Despite the greater need for job opportunities among disadvantaged women, inequities continue to exist in the manpower training programs of the federal government. The President's Task Force reported that only 31.7 percent of the 125,000 trainees in the on-the-job training programs conducted under the Manpower Development and Training Act in the fiscal year 1968 were women; only 24% of those hired in the JOBS (Job Opportunities in the Business Sector) program were women; and only 29% of the 33,000 enrollees in the Job Corps in June, 1968 were women. Meanwhile, by 1968 the number of unemployed young women (16 to 24 years of age) had increased to 697,000, and the unemployment rate for young women had increased while decreasing for young men in the same age group. Slight improvement in some training programs was reported in 1970.[24]

At the bottom of the economic ladder are the 1.6 million (1969 figures) employed as private household workers—including babysitters—about two-thirds of whom are nonwhite and whose median wage for full-time year-round employment in 1968 was $1,523. Nearly 200,000 of the women in this occupation were heads of families in March, 1969, and almost three-fifths of the women who reported private household work as the job longest held during 1968 had incomes below the poverty level. These women are the least protected of all workers. While they are eligible for coverage under the Social Security Act, they are not covered by the Federal Fair Labor Standards Act and are generally excluded from the benefits of labor standards legislation and social insurance which most other workers enjoy.[25]

The foregoing figures are illustrative and point to disparities which cannot be explained by purely social and cultural factors; nor can they be explained by differences in education. In March, 1968, the median number of years of school completed by women in the work force was 12.4 compared with 12.3 for working men. Of the total number of working women, 7.4% had completed 4 years of college compared with 7.7% of all working men. Only in the category of workers with 5 or more years of college education was there a noticeable difference between the sexes: 3.1% of all women workers and 5.9% of all male workers were in this group. In March, 1969, the median years of school completed for female and male workers in clerical occupations were identical: 12.6. But the median salary of full-time women workers in clerical jobs was only 65.1% ($5,187) of that of male workers ($7,966) in the same field.[26] The conclusion seems inescapable that a principal factor in the inferior economic position of women who work is the persistence of extensive patterns and practices of discrimination based solely on sex in the major institutions responsible for training and employment. In view of the massive public investment in higher education as the chief means of economic advancement, opportunities for women in this area are crucial to their achievement of economic equality. We turn, therefore, to a consideration of the position of women in higher education.

INEQUALITY IN EDUCATION

Colleges and universities play a strategic role in employment opportunity because the educational process determines *access* to professional training and careers. "Undergraduate and graduate programs in universities are analogous to the training and apprenticeship programs of industry," Congresswoman Martha Griffiths has pointed out.[27] The integral relationship between training and employment has led women to focus attention upon the paradox of continuous emphasis upon higher education as the gateway to economic opportunity while simultaneously there exists in our colleges and universities what Dr. Bernice Sandler, psychologist, has described as *"a massive, consistent and vicious pattern* of sex discrimination."[28]

Obviously, the more highly trained a woman is, the greater has been her investment in preparing for a career and the more likely she is to seek permanent employment and be concerned with career advancement. Work force participation of women increases at every level of education. In 1968 it ranged from 71% of all women with 5 or more years of college to only 17% of those women with less than 8 years of elementary school education.[29] Dr. Helen S. Astin's study of 1,547 women who had received their doctorates in 1957 and 1958 revealed that 91% were in the labor force in December, 1965.[30]

Yet it is precisely in those areas which require intensive training that women are most vulnerable to both overt and unconscious discrimination—namely, in academic life and the leading professions. The Equal Pay Act of 1963,[31] which amended the Fair Labor Standards Act, is limited by the exemption of "executive, administrative, or professional employees, including those employed as academic administrative personnel or teachers in elementary or secondary schools."[32] Academic women are not covered by Title VII of the Civil Rights Act of 1964,[33] which does not apply to any "educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution."[34] Title VI of the Act, which prohibits discrimination in federally assisted programs and activities, does not refer to sex discrimination.

Pressures for remedial action by Congress led to extensive hearings in June and July, 1970 before the House Special Subcommittee of the House Committee on Education and Labor.[35] The Subcommittee, chaired by Congresswoman Edith Green, developed more than 1250 pages of testimony and statistical data which substantiated Dr. Sandler's indictment. Although the scope of the hearings covered economic discrimination against women generally, in government, private industry and the professions, the bulk of the testimony and exhibits related to women in academia and in law and medicine. With respect to college and universities, representatives of women's groups called for investigation and remedial legislation particularly in the following area: 1) admission quotas in undergraduate and graduate schools; 2) discrimination in financial assistance for graduate study (scholarships, fellowships, research grants, teaching assistantships, etc.); 3) hiring practices; 4) promotions and 5) salary differentials.[36] What follows is a sampling of the information received by the Subcommittee which illustrates the dimensions of the problem.

Discriminatory admissions policies

The charge that women are subjected to higher admission standards than men throughout the levels of higher education was supported by considerable evidence. Dr. Peter Muirhead, Associate Commissioner of Education, Office of Education, Department of Health, Education and Welfare, told the Subcommittee that, according to the annual survey of college freshmen by the American Council on Education, women enter college with slightly better high school records than men. This background of higher achievement continues at graduate levels, "suggesting a tendency to require higher standards of women for admission." He noted that a 1965 sampling by the Office of Education of graduate degree-credit students in the arts and sciences revealed that 68% of the women but only 54% of the men had *B* or better undergradate grade averages.[37]

Dr. Ann Sutherland Harris of Columbia University, citing a report on women at the University of Chicago as "evidence that it is easier for a man than for a woman to get into graduate school," testified:

The most conclusive evidence is the grade point average of the women, which is significantly higher than the men. 9.1% of the women reported straight A averages compared with 6.8% of the men; 24.9% of the women reported A– averages compared with 20.1% of the men; and 32.2% of the women had B+ averages compared with 31.6% of the men. Only 30% of the women compared with 41% of the men had grade averages of B or lower.[38]

A correspondent from Cornell University informed the Subcommittee that there were quotas on women applicants operating at all the schools in the institution. For example, in the State School of Agriculture "quotas exist such that the mean SAT scores of entering women freshmen are higher than those of men by 30–40 points."[39]

Dr. Muirhead's testimony showed that restrictive admissions policies against women are applied at public universities as well as private institutions:

We know that many colleges admit fixed percentages of men and women each year, resulting in a freshman class with fewer women meeting higher standards than it would contain if women were admitted on the same basis as men. At Cornell University, for example, the ratio of men to women remains 3 to 1 from year to year; at Harvard/Radcliffe it is 4 to 1. The University of North Carolina at Chapel Hill's fall 1969 "Profile of the Freshman Class" states, "admission of women on the freshman level will be restricted to those who are especially well qualified." They admitted 3,231 men, or about half of the male applicants, and 747 women, about one-fourth of the female applicants. Chapel Hill is a State-supported institution.[40]

It should be noted here that discriminatory policies of state-supported institutions violate the equal protection clause of the fourteenth amendment.

The application of the "equal rejection"

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theory is apparently widely accepted by graduate and professional schools' admissions officers. For example, a university insists that it is not biased if it accepts 50 of 100 male applicants and only 10 of 20 female applicants. The inference of overt discrimination in admissions policies is strengthened by the fact that the faculties and college administrators who make these decisions are predominantly male. Significantly, the Cornell correspondent pointed out "that when a woman professor in one graduate field was put in charge of graduate student admissions, the ratio of women admitted to her field alone approached 50%. In other fields the ratio is very low." [43]

A consistent use of discriminatory quotas to limit the admission of women to medical school was revealed in data submitted by Dr. Frances S. Norris, M.D.[42] She testified that while women applicants to medical school have increased over 300% since 1930, the proportion of women accepted has fallen. From 1930 to 1939, women's share of the total number of admissions rose only from 4.5% to 9.7%, but the percentage of women applicants actually accepted over this same period *decreased* from 65.5% to 46.5%. Of the 2,097 women who applied for admission to medical school in 1968–69, only 976 were accepted. A study published in the *Journal of Medical Education* comparing men and women applicants between 1960 and 1969 shows that the number of women entering has been limited to a range of 7% to 10% of the total admissions.[45]

Dr. Norris charged that the low percentage of women accepted to medical school results from admitted prejudice on the part of medical school admissions committees and the use of the equal rejection formula. "Interviews with admissions officers at 25 northeastern medical schools" revealed that "19 admitted they accepted men in preference to women unless the women were demonstrably superior." The segregation of male and female applicants into two categories and the rejection of an equal percentage of each means that women applicants "are not judged on an equal competitive basis, but are placed in a disadvantageous category requiring special justification for acceptance." Studies of medical school admissions policies make it "apparent that the women rejected from the small female applicant pool were equal to or better than men accepted and that they were rejected because their sex quota was filled." [44] Dr. Norris also pointed out that these discriminatory policies are carried out with government aid. Federal grants to medical colleges in 1968–69 totalled $775 million, or more than half of the total expenses of these institutions.[45]

Similarly, the woman applicant to law school receives "special attention." "Although no law school uses either a formal or informal quota system to limit the number of females enrolled," writes Beatrice Dinerman, "they do admit to scrutinizing female applicants more closely for ability and motivation. Some schools give close consideration to the marital status of women before granting admission, and other schools take into account that a female student might not graduate and continue to practice. It follows that a male applicant is often chosen over an equally qualified female." [46]

Financial assistance

Although women have voiced strong suspicions that they are discriminated against in financial aid, evidence of bias in this area has been more difficult to obtain than in the area of admissions. Data from the Office of Education indicated that women undergraduates share in student assistance funds in approximately the same proportion as their percentage of enrollment. Dr. Muirhead stated that 43% of college undergraduates are women; that women constitute about 43% of all students receiving national defense loans, 49% of students benefiting from the work-study college program, 40.2% of those receiving equal opportunity grants and 36.5% of those participating in the guaranteed loan program.[47]

Complaints of discrimination have centered upon financial assistance for graduate study. Scattered testimony suggested that women fare slightly worse than men in receiving graduate fellowships. In 1969 women represented 33% of the graduate student population; they received 28% of the awards given under the NDEA Title IV fellowship program for graduate students and 29.3% of graduate academic awards under NDEA Title VI.[48] Other testimony indicated that women are less likely to receive graduate fellowships than men because they are less likely to complete their doctoral programs than men are,[49] or because of the departmental judgment "that among Ph.D's women are less likely than men to make full use of the training throughout their lifetimes and that accordingly scarce fellowship money should be given more frequently to men." [50] Women refute this argument by pointing to the the high proportion of women with Ph.D's who are working.[51] They also charge that attrition rates among women graduate students are aggravated because of disparagement and lack of support from the faculty.

The higher rate of attrition among women than men in college and graduate degree programs cannot be explained by any lack of high degree of commitment on the part of women students if the findings of a report on women at the University of Chicago are typical. A 1969 study of students at that institution produced responses "challenging the commonly held notion that women are less committed as students than men."

When asked what they expected to be doing ten years from now, 91 percent of the women respondents expected to be involved in a career as compared with 94 percent of the men. Only 5 to 6 percent of our women respondents said they would like or expected to be occupied with family alone ten years from now. Women and men appear to feel equally favorable about going to or being in graduate school. Furthermore, 62 percent of the women and 53 percent of the men respondents indicated that they would be "very disappointed" if they left school before completing their education.[52]

Dr. Harris, commenting on the report, pointed out that the average difference in attrition rates among men and women was 5% which she believed to be "statistically insignificant" and noted that at the College of Physicians and Surgeons at Columbia University, for example, the attrition rate of men students was equal to or greater than that of women students. She asserted that, in the opinion of those who have thought about this problem, the slightly higher attrition rates of women than of men graduate students . . . are largely explained by the lack of encouragement and by the actual discouragement experienced by women graduate students for their career plans. They are continually told that they will not finish, that women's minds are not as good as men's minds, that the "difficulties of combining the career (sic) of marriage and motherhood with a career as a scholar and teacher" will be beyond the physical and mental energies of all but the "exceptional woman" (but never, of course, of men, who are presumed to spend no time at all being husbands and fathers). Women are told that they are welcome first and foremost as decoration for the male academic turf. Even in academe, women are sex objects. . . . It is not surprising that some women decide that they are not cut out to be scholars or teachers. Rather it is surprising that the dropout rates are not far higher than they are. That they are not I take to be evidence of women graduate students' higher degree of commitment, produced as a natural defense mechanism in response to the sexual discrimination that they are meeting in their daily lives.[53]

The point was made that the higher attrition rate of women is used as an excuse to deny fellowships, which will "almost certainly increase their attrition rate, thus making the prophecy self-fulfilling." [54]

Women are further disadvantaged because they tend to be concentrated in those fields where aid is lowest. Jo Freeman of the University of Chicago suggested "that there is a relationship between those fields into which women are channeled by their undergraduate advisers and social expectations and those fields which have lower social and economic prestige as indicated by the funds available in such fields." [55] Another disadvantage is the failure of scholarship programs to make provision for part time study. Dr. Sandler testified:

Practically all Federal scholarship and loan aid is for fulltime study—a practice that works to virtually eliminate married women with families from receiving such aid, since they need a part-time schedule. Indeed, many schools forbid or discourage part-time study, particularly at the graduate level, thus punishing women who attempt to combine professional training and home responsibilities simultaneously.[56]

Direct evidence of discrimination in the award of scholarships and fellowships was presented against two institutions. The Women's Rights Committee of the New York University Law School submitted a statement pointing out that until the women's group pressed for reforms in 1969, "NYU had totally excluded women, for more than 20 years, from the prestigious and lucrative Root-Tilden and Snow Scholarships. Twenty Root-Tilden Scholarships worth more than $10,000 each were awarded to male "future public leaders" each year. Women, of course, can't be leaders, and NYU contributed its share to making that presumption a reality by its exclusionary policy." [57] A similar charge against Cornell University stated that the Cornell catalogue lists scholarships and prizes open to Arts and Science undergraduates totalling $5,045 annually to be distributed on the basis of sex. Women are eligible to receive only 15% or $760 of this amount compared with $4,285 for men.[58]

The problem of disparagement

Despite the high potential demonstrated by superior achievement records at high school and undergraduate school, numerically women steadily lose ground as they move up the academic ladder. In 1968, women were 50.4% of high school graduates, 43.4% of those receiving B.A. degrees, 35.8% of those awarded master's degrees, 12.6% of those receiving doctorates, and 4.6% of those receiving first professional degrees.[59] Dr. Muirhead, while recognizing that "his pattern of dropping percentages of women as the degree scale goes up results from a complex mix of factors," stressed the role of admissions policies and disparagement. He told the Subcommittee:

Both the reality and fear of higher admissions standards certainly play a part.

Women are generally encouraged to think of themselves as potential wives and mothers, and discouraged from thinking of themselves as potential professionals. Professors, counselors, and parents often discourage women from taking postgraduate training, except in "women's fields". They may argue that it is too hard for a woman to get a job in the professions, that she's only get married and stop working anyway, and so on.[60]

Other testimony also emphasized the negative effects upon women students of low expectations on the part of faculty and apathy on the part of counselors.[61]

The fact that many remarks addressed to women students by male faculty are often meant to be humorous does not remove the sting or the impact of the disparagement. Dr. Harris told the Subcommittee, "When President Nathan Pusey of Harvard realized that the draft was going to reduce the num-

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ber of men applying to Harvard's graduate school, his reaction was "We shall be left with the blind, the lame and the women." She asserted that the Chicago report on women "confirmed what most of us have known from personal experience for a long time, namely, that women receive significantly less support for career plans than men do." [62]

The most common manifestation of disparagement is the failure of male faculty members to take women students "seriously." Dr. Harris declared:

One remark above all is repeatedly made to women students . . . [who] are asked again and again "Are you really serious?" Since the vast majority of women students are as serious as the men students, the women start questioning themselves. Are they supposed to be more serious than men are? Are male students more serious than women students? How serious do you have to be? It is even asked of women who have completed their PhD's at great personal and financial cost when they apply for their first job.[63]

Typical remarks collected and reported by women students on various campuses are illustrative of the low expectations of faculty:

"You're so cute, I can't see you as a Professor of anything."

"Why don't you find a rich husband and give all this up."

"There are already too many women in this Department."

"We expect women who come here to be competent good students, but we don't expect them to be brilliant or original."

"Women are intrinsically inferior." [64]

The impact of such remarks is described in an analysis by a group of women graduate students at the University of Chicago, which stated in part:

Comments such as these can hardly be taken as encouragement for women students to develop an image of themselves as scholars. They indicate that some of our professors have different expectations about our performance than about the performance of male graduate students—expectations based not on our ability as individuals but on the fact that we are women. Comments like these indicate that we are expected to be decorative objects in the classroom, that we're not likely to finish a PhD, and if we do, there must be something "wrong" with us. . . .

Expectations have a great effect on performance. Rosenthal and Jacobson (1968) have shown that when teachers expected randomly selected students to "bloom" during the year, those students' IQs increased significantly above those of a control group. . . . It would be surprising to find that graduate schools are immune to this phenomenon. When professors expect less of certain students, those students are likely to respond by producing less.[65]

The enormous waste of talent and human resources in this process is indicated by a National Manpower Council report that only one of 300 women in the United States who have the potential to earn a Ph.D. degree actually obtains it, compared to one in 30 men.[66]

Placement

College placement officials are also charged with acquiescence in the discriminatory practices of private employers. Since colleges and universities are important recruiting centers for employment, one witness stressed the impact of the refusal of educational institutions to recommend students to potential employers with a record of sexual discrimination. "I cannot think of any single action that would have more beneficial effect for women than for all institutions of higher education to refuse to cooperate with sexist employers," she told the Subcommittee.[67] Dr. Sandler called attention to the "blatant discriminatory ads" labelled "male only" and "female only" contained in the *College Placement Manual* published by the College Placement Council to which over 1,000 colleges and universities belong. Noting that this publication is used on practically every college campus as well as by the Department of Defense and that such advertising violates Title VII of the Civil Rights Act of 1964 as well as Executive Order 11246, as amended by Executive Order 11375, Dr. Sandler observed:

University administrators who would be horrified if a placement bulletin for their students listed job openings for "whites only," apparently see little or nothing wrong with job openings that read "male only." [68]

Faculty appointments, income, promotions, and tenure

Inequities based upon sex exist at every level of the teaching profession. Although teaching in elementary and secondary schools is commonly considered to be a "woman's field," as in other areas women are concencentrated at the lower levels. More than two-thirds (67.6%) of the teachers in the elementary and secondary schools are women, but they constitute only 22% of the elementary school principals and only 4% of the high school principals. A recent survey by the National Education Association (NEA) reported that of 13,000 school superintendents only 2 women were found.[69]

At the college faculty level the attrition noted in the degree ladder becomes even more pronounced. They are not only a small minority but also tend to remain in the lower, non-tenured positions, are promoted more slowly and paid less than their male colleagues. Women view discrimination in this area as particularly blatant because of the highly select group of well qualified academic women who complete their doctoral programs against numerous odds and because,[70] "contrary to academic mythology, a higher percentage of women with doctorates go into college teaching than do men with doctorates." [71] Noting that the rigorous preselection process and other disadvantages to which women students are subjected are such that "only the hardiest survive," Dr. Harris told the Subcommittee:

As a group, women Ph.D.s have higher IQs, higher G.P.A.s, and higher class rank, than their male counterparts. How ironic that women who have demonstrated such promise and such dedication to their chosen fields should continually be treated as though their work is and should be peripheral and of secondary importance to society. Like all women, even this select group is treated as second-class citizens.[72]

Reports from various institutions [73] revealed that while the number of women receiving doctorates is steadily increasing, the proportion of doctorates awarded to women bears little relationship to their opportunities for faculty positions. For example, a study of Columbia University showed that from 1957 to 1968 the proportion of doctorates earned by women rose from 13% to 24%, but the percentage of women in tenured positions on the graduate faculty remained constant—at slightly over 2%.[74] A 1970 report on the University of Wisconsin revealed that the proportion of women in the Ph.D. programs in ten departments varied from 26% to 58%, but that the proportion of women faculty members in these departments ranged from 9.6% to 19.3%.[75] In 1968–69, women constituted 22% of the graduate students and were awarded 19% of the Ph.D.'s in the Harvard University Graduate School of Arts and Sciences, but there were no women among the more than 400 tenured professors of that graduate school.[76]

Dr. Alice Rossi's study of 188 graduate departments in sociology in 1968–69 graphically illustrates the downward spiral of women in sociology as they move from undergraduate majors to the chairmanship of a graduate department of sociology. According to her findings, women are:

[In percent]

Of college seniors planning graduate work in sociology	43
Of master's candidates in graduate school	37
Of Ph.D. candidates in graduate school	30
Of full-time lecturers and instructors	27
Of full-time assistant professors	14
Of full-time associate professors	9
Of full-time professors	4
Of chairmen of graduate sociology department	1
Of the 44 full professors in the five elite departments (Berkeley, Chicago, Columbia, Harvard, Michigan) [77]	0

A similar nationwide survey of the position of women in English and modern foreign language departments conducted by the Modern Language Association's Commission on Women in 1970 produced findings strikingly similar to those of the Rossi study. Replies from 595 questionnaires, or 60% of the sample, showed that while women represented 69% of all seniors planning graduate study in foreign languages, 65% of those planning graduate study in English, 55% of the graduate students in modern languages, 55% of the master's degrees awarded in the past five years and 31% of the Ph.D.'s received in the past five years, they constitute only 33% of the faculty with full-time appointments and only 18% of the full-time professors.[78]

A nationwide study of degree-granting institutions conducted by NEA in 1966 found that women represented 18.4% of the full-time faculty, distributed as follows: 32.5% of instructors, 19.4% of assistant professors, 15.1% of associate professors and 8.7% of full professors.[79] These figures, however, do not reveal the complete picture. Women comprise 40% of the facilities in the teachers colleges and 10% or less in the prestigious private institutions and large state universities.[80] A report on the distribution of women faculty at ten high endowment institutions of higher education in 1960 showed that the proportion of women faculty ranged downward from 9.8% of instructors to 2.6% of full professors.[81] Similarly, in ten high enrollment institutions, women comprised 20.4% of all instructors, 12.7% of all assistant professors, 10.1% of all associate professors and 4.3% of all professors.[82]

Other testimony noted that more than half of all academic women are concentrated in the fields of English, fine arts, health, education and physical education; that they are more likely to teach beginning college students—freshmen and sophomores—than upperclassmen or graduate students, and that they tend to cluster in the lower non-tenured ranks.[83] While it was suggested that "concentration in the untenured ranks may be attributed to fewer advanced degrees among women, to their youth, to the recency of appointment, or to the fact that it is not always easy to find a woman in the proper field," [84] other testimony stressed discriminatory hiring patterns and policies of promotion as significant factors in the lower percentage and low status of women on college facilities. It was also charged that women are losing ground to men even in faculty positions at women's colleges, which traditionally have provided the best teaching opportunities for women.[85]

Law schools, particularly, have made a poor showing in hiring women as faculty. The enrollment of women in law school has almost tripled from 1962 to 1969, when women numbered 5,000, or 6.9% of the 72,000 students enrolled in law school.[86] The White study showed that in 1966, of 2,355 teaching faculty members in 134 accredited law schools, only 51 women were full-time teaching faculty members in 38 law schools—slightly over 2%.[87] No appreciable change has

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occurred since 1966. The 1969–70 Directory of Law Teachers lists 53 women full-time faculty in 45 of a total of 144 accredited law schools.[88]

The pattern of inequality continues in the area of academic salaries. A 1965–66 NEA survey found that the median annual salary of female faculty members was 16.6% lower than the median salary of men: $7,732 compared with $9,275.[89] In every faculty rank women earned less than their male counterparts. The median salary for women full professors was $11,649 compared with $12,678 for male full professors. Differentials ranged from 6% among instructors to 8.8% among full professors.[90] Dr. Muirhead concluded from these and other facts that even taking into account such factors as low expectations, lack of day care centers, or institutional practices, "the inequities are so pervasive that direct discrimination must be considered as paying a share, particularly in salaries, hiring, and promotions, especially to tenured positions." [91]

Prejudice against hiring academic women is manifested in departmental practices as well as in the attitudes of hiring officials. The use of the informal grapevine to fill job openings almost automatically excludes women. For example, [t]he cliche opening, "Do you know a good man for the job", results in continuous but largely unconscious discrimination against women. Most of the men who use this phrase would deny vigorously that they are discriminating and would not also consider a "good woman," but the "good man" is an effective subconscious roadblock because the image we all tend to carry in our minds of a scholar is a masculine one.[92]

Graduate faculties "receive regular requests for graduate students with all but their PhDs completed, man preferred." [93] Professional organizations accept "male" openings. Dr. Lawrence A. Simpson discovered in his study of attitudes of hiring agents—deans, departmental chairmen and faculty—that while a statistically significant number of females were preferred over less qualified males, when men and women were equally qualified, hiring officials strongly favored the selection of males for faculty appointments. "Women should recognize," he concluded, "well in advance of their adventure into the academic marketplace, that they typically may not be selected on an equal basis with men. Prospective academic women must recognize that they should, in effect, *be more highly qualified than their male competitors* for higher education positions." [94]

Simpson's findings are consistent with the Astin study of women with doctorates.[95] One-third of the respondents listed that employer discrimination had been a problem in their career development. The types of discrimination most frequently encountered were: differential salaries for men and women with the same training and experience (40%), differential policies based on sex with respect to tenure, seniority, and promotions (33%), unwillingness to delegate administrative responsibility and authority to professional women (33%), and prejudices against hiring women (25%). Significantly, the Astin study also found that the women who reported employer discrimination were more likely to have more publications to their credit and more honors and awards for professional achievement than those who did not. The high correlation between achievement and the reporting of discrimination by employers suggested that these women's "complaints cannot be interpreted as a form of rationalization or as an excuse for their failure to achieve recognition. Furthermore, their comments are not based on hearsay, but reflect their own experience as professionally active women." [96]

Evidence of discrimination in promotions was substantiated by studies of differences in rates of promotion of men and women with similar training who have spent comparable periods of time in their professions. Drawing upon the Harmon 1968 study of Ph.D.'s, Dr. Rossi developed a table which confines attention to those men and women whose employment has "always" been academic, and compares the ascent to the pinnacle of full professorship of men holding social science doctorates with that of single women and of married women. *After twenty years of an academic career, 90 per cent of the men had reached a full professorship, something achieved by only 53 per cent of the single women and 41 per cent of the married women.* From these data it seems clear that it is sex and not the special situation of married women that makes the greatest difference to career advancement.[97]

A similar conclusion was reached by women investigating rates of promotion of men and women faculty members at a single institution. Dr. Harris described the study as follows:

At Columbia, we tried the crude but we think useful procedure of simply counting the numbers of men and women on the faculty in fulltime positions who received their PhDs in the 1960s and then studying their distribution by rank. There were 195 male faculty at Columbia who received doctorates in the 1960s. 47% are assistant professors, 38% are associate professors and 15% are full professors. There are 25 women fulltime faculty at Columbia in the same category. 96% (24) are assistant professors, one is an associate professor (tenure granted this year, PhD 1961); there are no female full professors who obtained their PhD in the 1960s at Columbia. Well over 50% of the men who earned their PhDs in 1963 and 1964 have been given tenure. None of the women in that group has been promoted to the rank of associate professor with tenure, although one woman is an assistant professor with tenure, an anomaly brought about by the extreme reluctance of her department to promote her. These differences in promotion rates are too great for discrimination against women not to be a large part of the story.[98]

Anti-nepotism rules, "no-inbred-hiring" rule, tenure system

Rules against nepotism, the "no-inbred hiring" rule and the tenure system are cited as among those policies which perpetuate discriminatory patterns. While nominally neutral, these rules fall more heavily upon women, who are already a disadvantaged group. About one-half of all institutions of higher education and over two-thirds of the large public colleges in the United States have regulations which prohibit or restrict the employment of more than one member of a family, according to a recent study by the American Association of University Women.[99] Originally formulated to discourage favoritism based upon family relationships, anti-nepotism rules impose a disproportionate burden upon academic women married to academic men. In many instances a faculty wife holding a Ph.D. is barred from teaching at the same university in which her husband holds an appointment. If employed at all, she is likely to hold a temporary or part-time position in a low category, work as a research associate or teach in a department outside of her own field. A report on nepotism at the University of California, Berkeley, included a survey of 23 faculty wives with Ph. D.'s, and found that "most feel that their talents are not fully utilized in their present positions, and that they are actually qualified for regular positions on the University faculty." [100]

A committee on the status of women of the American Political Science Association has recommended that rules against nepotism be abolished, that employment and advancement be based solely upon professional qualifications, and that consideration be given to the formulation of "conflict of interest rules to serve the legitimate functions nepotism rules served in the past." [101]

According to Dr. Ann Scott of the University of Buffalo, the "no-inbred-hiring" rule, under which a department or university refuses to hire any person who holds a degree from that university, "works like the nepotism rule, to deprive women of equal employment opportunities." The rule penalizes women who may marry faculty men and move to universities where their husbands have been appointed and who may wish to start or complete their studies. It also penalizes women graduate students who marry faculty men. When these women earn their degrees, Dr. Scott pointed out, they discover that the university will not employ them. She felt that the "no-inbred-hiring" policy "by its very existence, discourages many women from coming back for degrees at all, because there seems to be simply no way of using a long and expensive training." In her view, the rule was established in an era when there was much less movement from campus to campus, when universities were smaller in every respect, and when there was much less variety in subject, discipline and approach. "Today's university, however, needs no such discriminatory restrictions." [102]

Dr. Scott characterized "the anteriosclerotic tenure system" as "one of the most powerful and unexamined areas of discrimination against women in the university world." The thrust of her complaint is that the system is culturally biased against women because of its emphasis upon "production" and the secret conditions under which selections are made, all of which "create a competitive situation in which her cultural conditioning puts her at the greatest disadvantage." Dr. Scott argued that the criterion of publication emphasized in tenure proceedings is "inherently favorable to men" because, as studies indicate, "the professional work of women, regardless of quality, is granted less credence than that of men, publication is probably harder for women to achieve when they do produce, especially in a world of male dominated editorial boards." While recognizing that the University cannot "automatically repeal cultural conditioning," nevertheless in the matter of tenure it can effect some reforms to bleed the system of sexist bias. It can adopt a broader base of tenure criteria to include emphasis upon teaching service to the University and the community, and the necessity of women as visible life models. Because tenure means promotion, and because the patterns clearly show that as presently practiced it discriminates against women as a *selection system*, the whole tenure procedure should be subjected to a validation study on this basis alone.[103]

Reforms of the tenure system are long overdue and, in fact, would benefit men as well as women. The medieval flavor of secret proceedings in which a candidate's future career is decided *ex parte* seems incongruous in an institution dedicated to free and open inquiry. There is support for the view that tenure proceedings should be modified to permit a candidate to appear before the ad hoc tenure committee and answer questions, defend his or her record, or present his or her views, as is common practice in other personnel situations. An analogy to such a proceeding is the appearance of a doctoral candidate to defend his or her doctoral thesis.

ADMINISTRATION

If women fare poorly in academic posts, they fare even worse in college administration. Dr. Scott, describing the "progressive evaporation of women as we climb the academic ladder" at the University of Buffalo, noted that while women are only 5% of the full professors at that institution, they are only 1% of the top administration.[104] "The

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almost total exclusion of women from visible responsible positions in the administration of Columbia and all other institutions of higher education (with the possible exception of some women's schools) is clear evidence of discrimination against women," declared Dr. Harris.

As Dr. Rita W. Cooley, professor of political science at New York University said, "The universities tend to think automatically in terms of men when filling a new position. In a sense it's like racism. This discrimination exists at an unconscious level. There is no opportunity for women in administration. We are up against a strong cultural phenomenon, mass male chauvinism. If a women wants to be an administrator, the field is very narrow." [105]

EFFECTS OF UNDERUTILIZATION OF TRAINED WOMEN

As the foregoing discussion indicates, colleges and universities are deeply implicated in the systematic process which prevents women from fully realizing their potential as individuals in a society which boasts of its upward mobility. These institutions contribute to the vast waste of human resources and must share responsibility for some of the results.

An obvious result of this cumulative process is that women frequently work at jobs unrelated to their training or for which they are overqualified, or they perform the duties of a higher position without the benefits of advanced rank and higher pay. An analysis of women graduates form the College of Letters and Science at the University of Wisconsin illustrates this point:

[I]n 1964, of 9 working female former economics majors, 1 reported herself a welfare aid worker, 2 were secretaries, 1 a traffic assistant, 1 a clerk, 1 a recreation aide, 1 a physical education teacher, while only 3 held positions vaguely related to their economics training. Of the 63 male economics graduates who began working that year, needless to say none were secretaries or clerical workers; most were company trainees. . . . Even in English, a 'woman's field', several reported themselves as secretaries while their male counterparts were doing considerably better in range of job area and remuneration. In mathematics that year, all male working graduates except 1 Peace Corps volunteer were in jobs related to mathematics; of the 7 working female mathematics graduates 1 reported as a welfare aide and 1 as a waitress.[106]

This analysis is consistent with the report of the Women's Bureau that in March, 1969, a startling 7 percent of employed women who had completed 5 or more years of college were working as service workers (including private household), operatives, sales workers, or clerical workers. Nearly one-fifth [19%] of employed women with 4 years of college were working in these occupations, as were some two-thirds [69%] of those who had completed 1 to 3 years of college.[107]

A more far-reaching result for which colleges and universities are directly responsible is the continued lack of "role models" to encourage younger women to raise their goals and expectations and the perpetuation of the stereo-type that women are not a good academic investment. As the report on women at Columbia University pointed out:

We are puzzled by the Graduate Faculties' commitment to train women, but not to hire them. We know from experience as students and teachers that it is vital for women students in graduate school to see women engaged in the academic profession as naturally as men are. . . . By the obvious scarcity of women training graduate students, the institution acclimatizes women students to their professional expectations: low rank, low pay, low status, a slower rate of promotion than their male colleagues, and a more difficult tenure hurdle.[108]

Similarly, the report on women at Harvard University noted that the "scarcity of women scholars in the senior ranks at Harvard tends to discourage the professional aspirations of women students and junior faculty." [109] Thus, the self-fulfilling prophecy continues to operate. "Since women have a visibly lower chance of success than men," said Dr. Scott, "fewer women are inspired to try, lowering in turn the numbers of women available" for academic positions.[110]

REMEDIES AGAINST SEX DISCRIMINATION IN EDUCATION

Judicial approaches

The enormous extent to which the federal government subsidizes sex discrimination in higher education can be measured by the 1969 National Science Foundation report that 2,174 colleges and universities received $3,367 million from the federal government for the fiscal year 1968.[111] Citing these figures, Congresswoman Martha Griffiths charged that "it is a national calamity that agencies of the Federal Government are violating our national policy, as well as the President's Executive Orders, by providing billions of dollars of Federal contracts to universities and colleges which discriminate against women both as teachers and as students." [112]

Since colleges and universities are specifically exempted from present federal legislation with respect to discrimination based on sex, women must pursue available remedies through constitutional litigation or through the policies of the executive branch of the federal government. State-supported institutions of higher education, of course, are agencies of the state, and discriminatory policies of these institutions constitute state action within the purview of the equal protection clause of the fourteenth amendment. In *Kirstein v. Rector and Visitors*,[113] a lower federal court ruled that the exclusion of women applicants from the all-male campus of the University of Virginia was a denial of equal protection where the facilities available to women were not equal. The application of the fourteenth amendment to compel equalization of Negro teachers' salaries in the state school systems [114] and to prohibit racially discriminatory practices within state universities [115] may be extended to comparable issues of sex discrimination in appropriate cases.

The question arises whether discriminatory policies of *private* educational institutions receiving federal grants come within the scope of the due process clause of the fifth amendment. Here, too, by reference to precedents relating to racial discrimination, it is arguable that these institutions perform a public function and that the public character of the institution combined with direct involvement of the government through financial aid is sufficient to bring the fifth amendment into play.[116] This theory warrants greater consideration by lawyers concerned with women's rights. It should be pointed out, however, that the infrequency of constitutional attacks upon sex-based discrimination in institutions of higher education may be partly explained by the traditional attitudes of judges in the federal courts. As Mary Eastwood points out,[117] the Supreme Court and some of the lower federal courts have often applied different standards to sex discrimination and race discrimination.[118]

Executive Orders 11246 and 11375

A potentially powerful remedy is provided by Executive Order 11246,[119] as amended by Executive Order 11375,[120] which became effective October 14, 1968. The Order prohibits discrimination in employment because of race, color, religion, sex or national origin by federal contractors and subcontractors and on federally assisted construction contracts. Contractors are required to take affirmative action to ensure equal employment opportunity which "shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship." [121] Under regulations issued by the Department of Labor, federal contractors with a contract of $50,000 or more and 50 or more employees must develop a written plan of affirmative action to prevent the prohibited discrimination.[122] The Order is administered by the Office of Federal Contract Compliance (OFCC) in the Department of Labor, and the Secretary of Labor is empowered to cancel present contracts or declare the ineligibility for future contracts of contractors and subcontractors found guilty of discrimination. Sex Discrimination Guidelines were issued by OFCC on June 9, 1970.[123]

While overall responsibility for the enforcement of Executive Order 11246 remains with the OFCC, each contracting agency is primarily responsible for obtaining compliance with OFCC regulations with respect to contracts entered into by such agency. In October, 1967, the Department of Health, Education and Welfare (HEW) was designated by OFCC as "Compliance Agency" for all universities and colleges holding federal contracts. A Contract Compliance Division was established in HEW's Office of Civil Rights which began assigning field staff in July, 1968.[124]

During 1969 only three individual complaints charging sex discrimination were received by HEW.[125] Since January 31, 1970, however, the Women's Equity Action League (WEAL) and the National Organization for Women (NOW) have taken the initiative in filing complaints on behalf of women as a class against approximately 350 colleges and universities and several professional organizations.[126] The complainants seek affirmative action programs to upgrade all women employees as well as women professors and administrative workers, to develop policies of vigorous recruitment of women for faculty positions, to achieve salary equity between men and women in similar academic positions, to raise the number of women admitted to all levels of higher education and to eliminate sex-based discriminatory advertising. By May, 1971, compliance reviews were underway or had been initiated at an estimated 190 institutions of higher education, including Harvard, M.I.T., Brown, Tufts, University of Maryland, George Washington University, City University of New York (CUNY), the state university system of New York (SUNY), University of Pittsburgh, University of Michigan, University of Wisconsin, Yale University, University of Southern Illinois, Bryant College and Providence College in Rhode Island, several colleges in California, several institutions in Florida, Georgia and North Carolina and at least one in Arizona.[127]

Although the threat of withdrawal or suspension of government funds can be an effective instrument against discrimination in higher education, experience under Executive Order 11246 has already revealed serious weaknesses of coverage and enforcement. The order is directed to employment, and the question arises whether the requirement to ensure equal opportunity in "selection for training and apprenticeship" is broad enough to cover college admissions and other inequities experienced by women students. As suggested earlier, college training is analagous to apprenticeship training and should be considered an integral part of the employment process. This is particularly true of admissions to graduate and professional schools since such training is a prerequisite to academic employment. Graduate status is also required for appointment to teaching or research assistantships. The issue of graduate school admissions arose in compliance negotiations between HEW and the University Michigan and has been referred to Secretary

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Elliot Richardson for interpretation. At this writing no official interpretation has been issued.[128]

Order No. 4: Goals and timetables

A second disputed issue has arisen with respect to the general enforcement of the sex provisions of Order 11246. What has been described as "the heart of OFCC's enforcement procedure"[129] is Order No. 4, which became effective January 30, 1970 and sets forth detailed requirements of the contents of affirmative action programs to be developed by federal contractors. Order No. 4 declares in part:

An acceptable affirmative action program must include an analysis of areas in which the contractor is deficient in the utilization of minority groups and, further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to increase materially the utilization of minorities at all levels and in all segments of his work force where deficiencies exist.[130]

Order No. 4 specifically includes "sex," and the Rules and Regulations governing "Obligations of Contractors and Subcontractors" were amended on January 17, 1969, to provide: "The term 'minority group' as used herein shall include, where appropriate, female employees and prospective female employees."[131]

Since underutilization is one of the chief complaints of academic women, they argue that there is nothing in the Executive Order, the Rules and Regulations or in Order No. 4 which "indicates that women should have different or separate treatment or that priorities of enforcement should be establish."[132] Nevertheless, on July 25, 1970, at a meeting between Secretary of Labor James Hodgson and representatives of women's groups concerned with equal employment opportunity, the Secretary gave no "assurance . . . that goals and timetables would be applied against sex discrimination." He reportedly told the group that the "employment problems of women are different" and must be "handled on a different basis." He indicated that Order No. 4 was "designed for racial minorities" and that the Labor Department had "no intention of applying exactly the same approach to women in Order No. 4." On July 30, 1970, a group of angry women picketed in front of the Waldorf-Astoria Hotel in which 350 members of the National Association of Manufacturers met for a closed "video-teleconference" briefing being conducted by the OFCC and being telecast simultaneously from Washington to 14 cities. Women also demonstrated against the Department of Labor in each of the other 13 cities.[133]

On July 31, 1970, Secretary Hodgeson issued a statement declaring that while the Guidelines on Sex Discrimination and Order No. 4 are both directed to the same result and both require affirmative action on the part of Government contractors to attain that result. [t]he primary procedural distinction between the two is the requirement set forth in Order No. 4 that Government contractors analyze their work force and their potential work force recruitment area and where deficiencies in the utilization of minorities exist, that goals and timetables be set to which the contractors' efforts shall be directed to eliminate these deficiencies.

It is clear that utilization of the concept of goals and timetables as an anti-sex discrimination tool is appropriate. It is equally clear that the exact goals and timetables development procedure set forth in Order No. 4 is not sufficient to meet the more difficult and elusive problems of sex discrimination.

. . . [A]ccordingly, different criteria must be employed in examining work force patterns to reveal the deficiencies in employment of women than are used in revealing racial deficiencies. Such criteria may well include the availability of qualified women in the employer's own force and the interest level expressed in respective occupations, as evidenced by applications for employment in those occupations. . . . The Department plans to engage in an immediate series of consultations with interested parties. Representatives of women's groups, employers, and unions as well as acknowledged authorities on human resources will be invited to participate. . . . The information thus obtained [from the consultative groups] will be utilized by the Department in expanding and further defining its approach toward employing affirmative action to achieve an equal employment opportunity for women among Government contractors and by applying the concept of goals and timetables.[134]

The "immediate" consultations did not materialize. An advisory group of representatives from women's organizations, labor, management and authorities on human resources has been named and will meet in four separate committees beginning in early May, 1971, to consider the question of determining availability of women under Order No. 4. The groups may then meet together to formulate a report and recommendations to the Department of labor.[135] Meanwhile, the important issue of goals and timetables as applied to sex discrimination remains unclarified.

Limited resources of Office of Civil Rights, HEW

A serious overall problem is the meagre extent to which an agency with limited staff and resources can enforce compliance in an area of widespread and long entrenched patterns of sex discrimination, of resistance to change, and in the face of competing claims of other disadvantaged minorities covered by the Executive Order. As Daniel Zwerdling pointed out in an article reviewing HEW's compliance efforts at the University of Michigan, HEW has the zeal but not the money or staff to make its order stick. . . . HEW has only 27 people to investigate contract compliance at thousands of universities and hospitals under its jurisdiction around the country. They have to worry not only about sex, but race, national origin . . . and religion as well, HEW devoted an extraordinary amount of time to the first phase of negotiations with Michigan, but can't possibly follow up on the University's progress. Complaints against 200 [now approximately 350] more colleges are sitting in its files. "Our investigations now are hit and miss," says James Hodgedon, HEW's Chicago regional director.[136]

HEW does not deny this estimate of the situation. Although seeking an expansion of its staff, the Office of Civil Rights presently has only two to three investigators in each of its ten regional offices which must cover the entire United States. It must deal with the recalcitrance and evasions of educational institutions which, while they seek government funds, have traditionally resisted any type of governmental regulation. Zwerdling reported that Harvard University refused to cooperate with HEW investigators until government funds were held up and that while HEW has blocked contracts to four universities so far, only two—Michigan and Pittsburg—have presented remedial programs.[137] In these circumstances the inability of HEW to exercise continuous supervision over contract compliance in thousands of colleges and universities makes the potential relief granted under Executive Order 11246 a slender reed upon which to rely.

Proposed legislation

It seems clear that congressional action with adequate funding is necessary if women are to achieve full equality of opportunity in higher education. Several legislative proposals toward this objective introduced in the 91st Congress were not acted upon. The most comprehensive proposed legislation now pending before Congress is H.R. 916, the Mikva Bill, introduced in the House on January 22, 1971. Hearings on the bill were held before Special Subcommittee No. 4 of the House Judiciary Committee in March and April, 1971.[138]

Among other things, the Mikva Bill would provide for:

(1) amendment of Titles IV and IX of the Civil Rights Act of 1964[139] to authorize the Attorney General to institute suits or to intervene in actions brought to eliminate sex discrimination in public facilities and in education;

(2) amendment of Title VI of the 1964 Act to prohibit sex discrimination in federally assisted programs;

(3) amendment of Title VII of the Act to extend coverage to state and local governments and to educational institutions, and to empower the Equal Employment Opportunity Commission to issue enforceable orders;

(4) amendment of the Fair Labor Standards Act to apply the equal pay provisions[140] to executive, administrative and professional employees;

(5) requirement that the Commissioner of Education make a national survey of public and private schools and colleges at all levels of education (including technical and vocational as well as academic institutions) to determine the extent of denial of equal educational opportunity by reason of sex and to report the results of the survey with recommendations for legislation to Congress within eighteen months of the date of enactment.

The Nixon Administration has introduced legislation (H.R. 5191; S. 1123) to amend and extend the Higher Education Act of 1965.[141] Section 1001(a) of the bill provides:

No person in the United States shall, on the ground of sex, be discriminated against by a recipient of Federal financial assistance for any education program or activity. The preceding sentence shall not, however, preclude differential treatment based upon sex where sex is a bona fide ground for such differential treatment.

Critics of the bill point out that the loosely worded exception can virtually nullify the objective of the bill. Section 1001(b) prohibits discrimination in employment on grounds of sex by recipients of federal financial assistance for any educational program or activity.[142] Federal agencies empowered to extend federal financial assistance to educational programs or activities are directed to administer the provisions of section 1000 by issuance of rules, regulations or orders which shall not become effective unless and until approved by the President.[143]

The Administration bill does not extend the coverage of Title VII to educational institutions but provides for the administration of the equal employment opportunity provision by federal contract granting agencies. The language of the BFOQ exception differs from that of Title VII covering the same subject matter. The variance of language and the multiplicity of agencies involved in the administration of the equal employment opportunity provision may cause confusion and lack of uniformity in the interpretation and application of the provision.[144]

An alternative to the Administration bill is the proposed Higher Education Act of 1971 (H.R. 7248) introduced by Congresswoman Edith Green. The bill would amend Title VI of the Civil Rights Act of 1964 to prohibit sex discrimination against any person under any educational program or activity receiving federal financial assistance. The bill, however, exempts from coverage any "educational institution in existence on the date of enactment of this subsection at which on that date substantially all the students are of the same sex." This exception is so broad that conceivably it could be interpreted to exempt from coverage law schools, medical schools and other professional schools which present-

Footnotes at end of article.

ly have only a few women students enrolled. The word "substantially" should be omitted. The bill also provides a 5-year exemption for schools now in the process of changing from one-sex to coeducational institutions, and certain religious institutions are exempted.

The Green bill would also amend section 701(b) of Title VII of the Civil Rights Act to cover teachers in public and private institutions; it would amend the Civil Rights Act of 1957 [145] to extend the jurisdiction of the United States Commission on Civil Rights to sex discrimination, and would amend the Fair Labor Standards Act to apply the equal pay provisions to executive, administrative and professional employees.

Meanwhile, the modest gains which women have made during the period of rapid expansion of higher education are seriously threatened. The predicted number of teaching positions in the 1970's will be fewer than the Ph.D.'s available.[146] Moreover, most colleges and universities are in financial difficulties, and many of these institutions are beginning to reduce their professional and administrative staffs. In view of women's marginal position in academic institutions, they are highly vulnerable to retrenchment policies. In addition, an unprecedented number of trained women will be seeking employment during the 1970's. The prospects look bleak unless women press vigorously for effective legislation to protect their foothold in higher education and reinforce their legitimate claims through organized protests.[147]

As this entire discussion has intimated, the present unrest among women, particularly in the academic world, has a valid basis and shows no signs of abatement. Failure to deal with this national problem can have serious consequences, for as Dr. Rossi has warned:

Should these protections against discrimination on the basis of sex not be enacted, we can predict increased militancy by American women. Such militancy among women, as among blacks, will not be evidence of psychological instability but a response to the frustration of rising expectations. Militant women in the 1970s may be spurned and spat upon as the suffragists were during the decade before the vote was won for women in 1920. But it must be recognized that such militant women will win legal, economic, and political rights for the daughters of today's traditionalist Aunt Bettys, just as our grandmothers won the vote that women exercise today.[148]

It is in the best interests of the Nation to heed this warning.

FOOTNOTES

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[1] *See, e.g.*, Freeman, *The Legal Basis of the Sexual Caste System*, 5 VAL. U.L. REV. 203 (1971).

[2] For a discussion of the unique characteristics of sex inequality see Rossi, *Sex Equality: The Beginnings of Ideology*, in VOICES OF THE FEMINISM 59 (M. Thompson ed. 1970).

[3] Note, *"A Little Dearer Than His Horse": Legal Stereotypes and the Feminine Personality*, 6 HARV. CIV. RIGHTS—CIV. LIB. L. REV. 269 (1971).

[4] PRESIDENT'S TASK FORCE ON WOMEN'S RIGHTS AND RESPONSIBILITIES, A MATTER OF SIMPLE JUSTICE 18–19 (1970). For proposed legislation in the 92d Congress to implement the recommendations of the Task Force, see the Mikva Bill, H.R. 916, 92d Cong., 1st Sess. (1971). *See* note 135 *infra* and accompanying text.

A more recent report from the Women's Bureau on 1969 wage and salary income showed that the gap in median earnings of full-time year-round (worked 35 or more hours a week for 50 to 52 weeks) female and male workers had narrowed slightly since 1968. In 1969 women's median wage or salary income was 60.5% ($4,977) of that of men ($8,227) compared with 58.2% ($4,457) of that of men ($7,664) in 1968. However, the gap was still wider than it was in 1955, when women earned a median wage or salary income of 63.9% of that earned by men. U.S. Dep't of Labor, Women's Bureau, Fact Sheet on Earnings Gap 1, Feb., 1971. The table reproduced below from the report indicates that women earn substantially less than men with the same education.

TABLE 1.—MEDIAN INCOME IN 1969 OF FULL-TIME YEAR ROUND WORKERS, BY YEARS OF SCHOOL COMPLETED

[Persons 25 years of age and over]

Years of school completed	Women	Men	Women's income [1]
Elementary school:			
Less than 8 years	$3,603	$5,769	62.5
8 years	3,971	7,147	55.6
High school:			
1 to 3 years	4,427	7,958	55.6
4 years	5,280	9,100	58.0
College:			
1 to 3 years	6,137	10,311	59.5
4 years	7,396	12,960	57.1
5 years or more	9,262	13,788	67.2

[1] As percent of men's income.

Source: U.S. Department of Commerce, Bureau of Census: Current Population Reports, P-60, No. 75. Id. at 3.

[5] The most recent analyses that attempt to explain [the new feminist movement] . . . have stressed the impact of participation in the civil rights movement upon younger women, who drew the same lessons their ancestors did from involvement in the abolitionist cause in the 19th century. Without detracting from the significance of this point at all, I would only point out that this holds for only one group within the younger generation of women now involved in women's liberation, and that the emergence of the liberation movement all told postdates other significant signs of an awakening among American women much earlier in the decade. In fact, I would argue that it was the changed shape of the female labor force during the period beginning with 1940 that gradually provided the momentum that led to such events as the Kennedy Commission on the Status of Women, and eventually to the formation of new women's rights organizations like the National Organization for Women. So long as women worked largely before marriage while they were single, or after marriage only until a first pregnancy, or lived within city limits where there was a diversity of activities to engage them, there were feeble grounds for any significant movement among women focused on economic rights, since their motivation in employment was short-lived and their expectations were to withdraw when they became established in family roles. It was the gradual and dramatic change in the profile of the female labor force from unmarried young women to a majority of older married women that set in motion a vigorous women's rights movement. It is only among women who either expect or who find themselves relatively permanent members of the work force whose daily experience forced awareness of economic inequities on the grounds of their sex. This is changing now under the influence of women's liberation groups among the young, but this movement did not exist to trigger the larger movement early in the last decade.

Address by Alice S. Rossi, Barnard College Conference on Women, April 17, 1970, reprinted in *Hearings on Section 805 of H.R. 16098 Before the Special Subcomm. on Education of the House Comm. on Education and Labor*, 91st Cong., 2d Sess. 1060 (1970) [hereinafter cited as *1970 Hearings*].

Section 805 of H.R. 16098 proposed to amend the Civil Rights Act of 1964 to include "sex" in Title VI prohibiting discrimination in federally assisted programs, to extend the provisions of Title VII relating to equal employment opportunity to educational institutions, to extend the jurisdiction of the United States Civil Rights Commission to include "sex," and to apply the equal pay provisions of the Fair Labor Standards Act to "executive, administrative or professional employees, including those employed as academic administrative personnel or teachers in elementary or secondary schools." The bill was not acted upon by the 91st Congress. Similar provisions are contained in the Mikva Bill (H.R. 916) and in the Green Bill (H.R. 7248) currently pending in the 92d Congress. Hearings on the Mikva bill were held before the Special Subcommittee No. 4 of the House Committee on the Judiciary in March and April, 1971. *See* notes 138–44 *infra* and accompanying text.

[6] U.S. DEP'T OF LABOR, WOMEN'S BUREAU, WOMEN WORKERS TODAY 1 (1970). Congresswoman Edith Green, chairman of the House Special Subcommittee on Education, stated in her opening remarks on section 805, H.R. 16098, that as of April, 1971, "there were 31,292,000 women in the labor market constituting nearly 40 percent of the total." *1970 Hearings* 2.

[7] N.Y. Times, Apr. 11, 1971, at 1, col. 3.

[8] Waldman, *Marital and Family Characteristics of the U.S. Labor Force*, MONTHLY LABOR REV., May, 1970, reprinted in *1970 Hearings* 977, 978.

[9] Most women work to support themselves or others. Of the 37 million women who worked at some time in 1968, 17 percent were widowed, divorced, or separated from their husbands; many of these women were raising children in a fatherless home. Another 23 percent of the women workers were single. In addition, married women whose husbands' incomes are inadequate or barely adequate to support their families often are compelled to seek gainful employment. Eight percent of all women who worked in 1968 had husbands with annual incomes below $3,000. An additional 22 percent had husbands whose incomes were between $3,000 and $7,000 at a time when the annual income necessary even for a low standard of living for an urban family was estimated at $6,567.

U.S. DEP'T OF LABOR, WOMEN'S BUREAU, UNDERUTILIZATION OF WOMEN WORKERS 1 (1971) [hereinafter cited as UNDERUTILIZATION].

[10] Traditional counseling emphasizes women's adaptation to their traditional roles in society. Cornell's [University] placement office maintains a "special" bulletin board labeled "Opportunities for Women" which describes "Exciting Secretarial Opportunities" followed by a list of typing school scholarships, with no mention of executive training programs except where it is in a uniquely feminine field like clothes merchandising. . . .

Cornell placement has also allowed visiting recruiters to request to see only male applicants for positions which women are equally qualified for.

Kusnetz & Francis, The Status of Women at Cornell, 1969, reprinted in *1970 Hearings* 1078, 1081.

[11] *Special Report: Why Doesn't Business Hire More College Trained Women?* PERSONNEL MANAGEMENT—POLICIES AND PRACTICES (April, 1969), reprinted in *1970 Hearings* 174.

[12] UNDERUTILIZATION 13. In engineering, monthly starting salaries were $844 for women, $872 for men; in accounting $746 for women, $832 for men; in economics and finance, $700 for women, $718 for men; in mathematics and statistics, $746 for women, $733 for men. *Id. See generally* U.S. Dep't of Labor, Women's Bureau, Fact Sheet on the Earnings Gap, Feb., 1970. A more recent report just released, however, shows that the jobs and salaries to be offered to June, 1971, college graduates (in a survey conducted in November, 1970, and covering 191 companies) indicates that while women are consistently offered salaries lower than men, the gap has narrowed somewhat; the 1971 gap

"ranges from $68 down to only $1 per month difference in engineering." Women's Bureau Report, *supra* note 4, at 5–6.

[13] White, *Women in the Law*, 65 MICH. L. REV. 1051 (1967). The study was based upon usable questionnaires returned from 1,298 female and 1,329 male respondents drawn from 108 law schools. *Id.* at 1053.

[14] *Id.* at 1057.

[15] *Id.* at 1070–84.

[16] *Id.* at 1085.

[17] *Id.* at 1087. Note that 982 of 1,298 female respondents reported that at least one statement of a policy against hiring women had been made to them. *Id.* at 1086.

Wage differentials in federal employment are reflected in grade differentials. The National Association of Women Lawyers, in an analysis of figures obtained from the United States Civil Service Commission, found that in 1964 the 634 female attorneys represented 6.2% of the total general attorneys employed by the federal government. "1969 showed a grade distribution difference between men and women attorneys that would indicate about one grade difference for all the levels. Thus, a woman attorney could expect to be hired at a lower grade and/or raised at a slower level." Statement of Margaret Laurance, *1970 Hearings* 1120, 1121. *See* Dinerman, *Sex Discrimination in the Legal Profession*, 55 A.B.A.J. 951 (1969); Sassower, *Women in the Law: The Second Hundred Years*, 57 A.B.A.J. 329 (1971).

[18] EQUAL EMPLOYMENT OPPORTUNITY REPORT NO. 1, JOB PATTERNS FOR MINORITIES AND WOMEN 1966 (1969).

[19] Table 2.

[20] U.S. CIVIL SERVICE COMM'N, BUREAU OF MANAGEMET SERVICES, STUDY OF EMPLOYMENT OF WOMEN IN THE FEDERAL GOVERNMENT 1967 at 17 (1968).

TABLE 2.—EARNINGS OF FULL-TIME YEAR-ROUND WORKERS BY SEX, 1969

Earnings	Women	Men
Total	100.0	100.0
Less than $3,000	14.4	5.7
$3,000 to $4,999	36.2	9.8
$5,000 to $6,999	29.7	18.2
$7,000 to $9,999	14.9	31.2
$10,000 to $14,999	4.2	23.9
$15,000 and over	.7	11.1

Source: U.S. Department of Commerce, Bureau of the Census Current Population Reports, P-60, No. 75. Women's Bureau Report, supra note 4, at 3.

TABLE 3.—MEDIAN WAGE OR SALARY INCOME OF FULL-TIME YEAR-ROUND WORKERS, BY SEX AND SELECTED MAJOR OCCUPATION GROUP, 1969

Major occupation group	Median wage or salary income		
	Women	Men	Women's as percent of men's
Professional and technical workers	$7,309	$11,266	64.9
Nonfarm managers, officials, and proprietors	6,091	11,467	53.1
Clerical workers	5,187	7,966	65.1
Salesworkers	3,704	9,135	40.5
Operatives	4,317	7,307	59.1
Service workers (except private household)	3,755	6,373	58.9

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60, No. 75. Women's Bureau Report, supra note 4, at 2.

[21] Statement of Irving Kator, Assistant Executive Director, U.S. Civil Service Commission, in *1970 Hearings* 727–34.

[22] In comparison to world-wide or even black and other minority groups in the United States, these figures [on women lawyers] could not be more depressing. Of the nation's 320,000 lawyers, 8,000 are women and approximately 3,000 are Negroes. . . . This means that one of every 7,300 Negroes is an attorney and only one of every 12,500 women is an attorney. A United Nations Commission report ten years ago shows that in Denmark where women comprise approximately the same proportion of the population as they do in the U.S., 50% of the lawyers are women. In the Soviet Union 36 percent of the attorneys are women, and in Germany women are 33 percent of the lawyers. France has 14 percent women attorneys and Hungary claims 9 percent of its public prosecutors are women, while Poland indicates that 25 percent of its judges are women.
Statement of Margaret Laurance, *supra* note 17, at 1127, *citing* 1959 U.N. Commission on the Status of Women Report. The Laurance statement also cites the *Directory of American Judges*, indicating that in 1967 there were only 200 women of 9,000 judges on the bench. *Id.* at 1122. *See also* Statement of the Women's Rights Committee of New York University School of Law, reprinted in *1970 Hearings* 584.

In 1965, women constituted 6.7% of all physicians in the United States, significantly lower than the Philippines (24.7%), Finland (24.2%), Israel (24%), Thailand (23.8%), Germany (20%), Italy (18.8%), Scotland (17%) and England and Wales (16%). Of 29 reporting countries only 3 (South Vietnam, Madagascar and Spain) had a smaller percentage of women physicans than the United States. *See* U.S. Dep't of Labor, Women's Bureau, Facts on Prospective and Practicing Women in Medicine (1968), reprinted in *1970 Hearings*, 523, 538–39. *See also* note 45 *infra*.

[23] UNDERUTILIZATION 17–19.

[24] PRESIDENT'S TASK FORCE, *supra* note 4, at 20–21. Dr. Ann Scott testified at hearings held on H.R. 16098 on June 19, 1970, that of 278,000 registered apprentices under the Bureau of Apprenticeship Training in 1968, less than 1% were women; of the 370 occupations represented, women were being trained for only 47. *1970 Hearings*, 209, 211. On July 31, 1970, Mrs. Elizabeth Duncan Koontz, Director of the Women's Bureau, testified at the hearings on H.R. 16098, and in answer to a question by Mrs. Green, Chairman of the House Special Subcommittee on Education, as to whether there had been any improvement of women's position in the various job training programs, replied:

I think the percentage of increase, according to our latest figures out of 1969, do suggest some increases.

MRS. GREEN. Do you know what—and in manpower training or retraining programs?

MRS. KOONTZ. In the various programs under MDTA, 44 percent, and on the job, 35 percent. I feel the New Careers program, indicating 70 percent at this time, is one of the most encouraging. With the Job Corps, it is still 29 percent, which indicates room for much improvement and encouragement.
1970 Hearings, 691, 700.

[25] U.S. Dept. of Labor, Women's Bureau, Women Private Household Workers, May, 1970, reprinted in *1970 Hearings*, 357. For data on the special problems of Negro women, see U.S. Dep't of Labor, Women's Bureau, Negro Women in the Population and the Labor Force, December, 1967; U.S. Dep't of Labor, Women's Bureau, Fact Sheet on Educational Attainment of Nonwhite Women, May, 1967; PRESIDENT'S COMMISSION ON THE STATUS OF WOMEN, REPORT OF CONSULTATION ON PROBLEMS OF NEGRO WOMEN (1963); Pressman [Fuentes], *Job Discrimination and the Black Woman*, CRISIS, March, 1970, at 103; Murray, *The Liberation of Black Women*, in VOICES OF THE NEW FEMINISM 87 (M. Thompson ed. 1970); Reid, "Together" Black Women, 1970, unpublished study prepared for the Black Women's Community Development Foundation, Washington, D.C.

[26] *See* U.S. Dep't of Labor, Women's Bureau. Background Facts on Women Workers in the United States 11–12, Tables 7 and 8, 1970. *See also* Table 3, *supra* note 19.

[27] 116 CONG. REC. H1588 (daily ed. March 9, 1970).

[28] Statement to the House Special Subcommittee on Education, in *1970 Hearings* 298, 301 (emphasis in original). Dr. Sandler, who is Chairman, Action Committee on Federal Contract Compliance in Education, WEAL, summarized women's activities to eliminate discriminatory practices as follows:

"Women on campuses all over the country have begun to form groups, across departmental and professional lines. They are beginning to do more than complain; they are examining their own university's commitment and treatment of women. Women faculty, women staff, and women students are all participating. Women's rights are being included in a variety of student protest activities.

"Women in the professions are becoming highly sensitive to the need for the recognition of the inequities within their professions. At the Fall 1969 meeting of the American Psychological Association, women psychologists charged that organization with accepting male job openings (WEAL [Womens' Equity Action League] has since filed formal charges against the American Psychological Association and the American Personnel and Guidance Association for this very reason). The women proceeded to form a new group, the Association for Women Psychologists. In other professional organizations such as the American Sociological Association, the Modern Language Association. The American Historical Association, the American Political Science Association, the American Society for Microbiology, and the American Association for the Advancement of Science, women have begun to form caucuses and organize as pressure groups to end discrimination within their respective professions. In April 1970, a Professional Women's Caucus emerged which will represent all professional women. These are but a few examples of activity by women in the academic and professional worlds."
1970 Hearings 307.

[29] U.S. DEP'T OF LABOR, WOMEN'S BUREAU, *supra* note 6, at 3. Of all women with 8 years of elementary school education, 31% are in the work force; of those with 4 years of high school education, 48%; of those with 4 years of college, 54%.

[30] Astin, *Factors Associated with the Participation of Women Doctorates in the Labor Force*, PERSONNEL & GUIDANCE J., Nov., 1967, reprinted in *1970 Hearings* 843. *Compare* the statement of Dr. Muirhead of the Office of Education, Health, Education and Welfare, citing a 1966 OEO study which found that 85% of women receiving doctorates between 1958 and 1963, were working full time. *1970 Hearings* 645. According to Dr. Sandler, "79% of women Ph.D.'s have had uninterrupted careers."

[31] 29 U.S.C. § 206(d) (1964). For a discussion of the Equal Pay Act, see Berger, *Equal Pay, Equal Opportunity and Equal Enforcement of the Law for Women*, 5 VAL. U.L. REV. 326 (1971).

[32] 29 U.S.C. § 213 (1964).

[33] 42 U.S.C. §§ 2000e et seq. (1964). *See* Fuentes, *Federal Remedial Sanctions: Focus on Title VII*, 5 VAL. U.L. REV. 374 (1971); Mink, *Federal Legislation to End Discrimination Against Women*, 5 VAL. REV. U.L. 397 (1971).

[34] 42 U.S.C. § 2000e-1 (1964).

[35] *See* note 5 *supra*.

[36] *See* Letter from Nancy E. Dowding, President, Women's Equity Action League, to Hon. George P. Schultz, Secretary of Labor, Jan 31, 1970, reprinted in *1970 Hearings* 742.

[37] *1970 Hearings* 642, 643. A ten-year survey (1961–1970) of graduates of the School of Arts and Sciences at Brandeis University showed that during that period women were awarded 49.1% of all degrees conferred but

took 51.7% of all honors and 40.2% of the highest honors. *Id.* at 336.

[38] *Id.* at 242, 248–49.

[39] Letter from Shiela Tobias, then assistant to the vice-president for academic affairs at Cornell University (now Associate Provost, Wesleyan University) to Hon. Edith Green, July 12, 1970, reprinted in *1970 Hearings* 1077.

[40] *1970 Hearings* 643.

[41] Tobias letter, *supra* note 39.

[42] *1970 Hearings* 510–79.

[43] *Id.* at 526, 574. In 1968–69, of 19,021 male applicants to medical school, 9,116, or 47.9% were accepted. *Id.* at 574.

[44] *Id.* at 511–12.

[45] *Id.* at 522–23. A 1968 report of the Women's Bureau emphasized an urgent need for the training of additional health workers, including physicians, to meet the growing health needs of the nation due to continuing population growth, increased longevity, expanded medical services under medicare and medicaid programs and increasing awareness of the health problems of disadvantaged groups. The United States Public Health Service estimated that 400,000 physicians would be needed by 1975—100,000 more than were active in 1968. Tables in the report compared the proportion of women graduates from medical schools in the United States with other countries in 1965. The 503 women graduates from medical schools in the United States for that year constituted only 7.3% of the total. By contrast, the Republic of Germany reported 921 women graduates from medical school, or 35.8% of the total. In India, Thailand, Austria and the combined countries of England, Scotland, and Wales, women represented one-fourth or more of the total medical school graduates in 1965. In 10 additional countries, they were between 10% and 20% of the total. In only 2 (New Zealand and the Republic of China) of 22 reporting countries was there a smaller proportion of women graduates than in the United States. *See 1970 Hearings*, 537–38.

[46] Dinerman, *supra* note 17, at 951.

[47] *1970 Hearings* 645.

[48] *Id.* at 646.

[49] Statement of Dr. Ann Sutherland Harris, Assistant Professor of Art History, Columbia University [Hereinafter cited as Harris statement], in *1970 Hearings* 247.

[50] Report of the Committee on University Women, Women in the University of Chicago 43, May 1, 1970, reprinted in *1970 Hearings* 753, 804 [hereinafter cited as Chicago Report].

[51] *See* note 30 *supra* and accompanying text.

[52] Chicago Report, *supra* note 50, at 43, reprinted in *1970 Hearings* 805.

[53] Harris statement, *supra* note 49, in *1970 Hearings* 247.

[54] *Id.*

[55] Chicago Report at 116, reprinted in *1970 Hearings* 878.

[56] Statement of Dr. Bernice Sandler, in *1970 Hearings* 301.

[57] Statement of Mrs. Diane Blank and Mrs. Susan Deller Ross, in *1970 Hearings* 584, 588.

[58] Kusnetz & Francis, The Status of Women at Cornell, 1969, in *1970 Hearings* 1078, 1080.

[59] Statement of Peter Muirhead, in *1970 Hearings* 643.

[60] *Id.* at 643–44.

[61] *See 1970 Hearings* 200–01, 289, 805, 810.

[62] Harris statement, *supra* note 49, in *1970 Hearings* 243, 246.

[63] *Id.* at 246.

[64] *Id.* at 245.

[65] *Id.* at 245–46, citing R. ROSENTHAL & L. JACOBSON, PYGMALION IN THE CLASSROOM: TEACHER EXPECTATION AND PUPIL'S INTELLECTUAL DEVELOPMENT (1968). For a discussion of psychological barriers to female achievement, see Horner, *Fail: Bright Women*, PSYCHOLOGY TODAY, Nov., 1969, reprinted in *1970 Hearings* 896.

[66] Shaffer & Shaffer, *Job Discrimination Against Faculty Wives*, 36 J. OF HIGHER EDUC. 10–15 (Jan., 1966). *See also 1970 Hearings* 1022–23.

[67] Harris statement, *supra* note 49, in *1970 Hearings* 256.

[68] Statement of Bernice Sandler, in *1970 Hearings* 320.

[69] Muirhead statement, *supra* note 59, in *1970 Hearings* 644.

[70] *See* Harris statement, *supra* note 49.

[71] *1970 Hearings* 739.

[72] *Id.* at 249.

[73] See *1970 Hearings* for statistical reports and statements on the status of women for the following colleges and universities: Brandeis, *id.* at 336; University of Buffalo, SUNY, *id.* at 212; California State College at Fullerton, *id.* at 202; University of California at Berkeley, *id.* at 1143; University of Chicago, *id.* at 753, 994; Columbia University, *id.* at 242, 260; Cornell University, *id.* at 1077–78; Eastern Illinois University, *id.* at 1222, 1223; Harvard University, *id.* at 183; University of Illinois, *id.* at 1225; Kansas State Teachers College, *id.* at 1226; University of Maryland, *id.* at 1024; New York University Law School, *id.* at 584; University of Wisconsin, *id.* at 190.

[74] Muirhead statement, *supra* note 59, in *1970 Hearings* 645. A comparison of doctorates earned by women in various departments of Columbia University and the percentage of women in full time faculty positions in these departments showed the following:

French: 66.6% of their doctors go to women—no full-time female faculty.

Art history and archeology: 54% of the doctorates are earned by women, 26% of the tenured faculty and 71% of the non-tenured faculty are women.

Biological Sciences: 45% of the doctorates are awarded to women; 9.5% of the tenured faculty and 33% of the non-tenured faculty are women, *i.e.*, 2 men and 1 woman.

Anthropology: 44% of doctorates go to women—no full-time female faculty.

Psychology: 36% of doctorates go to women—no female faculty.

English and comparative literature: 27% of doctorates are earned by women. One tenured woman listed in Graduate Faculty (4% of the tenured faculty).

Sociology: 26.6% of doctorates go to women; one woman assistant professor (1967–68).

History: 17% of doctorates earned go to women. One tenured woman; one non-tenured woman.

Philosophy: 17% of doctorates go to women; no women on faculty.

Public law and government: 16% of doctorates earned by women; one female instructor (non-tenured). There are 35 men in the department, 26 of whom are full professors.

Columbia Women's Liberation, Report From the Committee on Discrimination Against Women Faculty, Columbia University, reprinted in *1970 Hearings* 260, 264.

[75] Report of Women's Research Group, Women's Group, Women at Wisconsin (1970), reprinted in *1970 Hearings* 190, 196.

[76] Sandler statement, *supra* note 68, in *1970 Hearings* 299. *See also* Preliminary Report on the Status of Women at Harvard, March 9, 1970.

[77] Rossi, *Status of Women in Graduate Departments of Sociology 1968–1969*, 5 AMERICAN SOCIOLOGIST, Feb., 1970, reprinted in *1970 Hearings* 1942, 1252.

[78] Report on the Status of Women, Modern Language Association Commission on Women (undated), circulated in April, 1971. Available in manuscript from F. Howe, Goucher College, Towson, Md. 21204.

[79] Muirhead statement, *supra* note 59, in *1970 Hearings* 644.

[80] *See* statements of Hon. Martha Griffiths and Dr. Bernice Sandler, in *1970 Hearings* 299, 739.

[81] Harris statement, *supra* note 49, in *1970 Hearings* 253, citing study by John Parrish. The ten high endowment colleges were: Chicago, Columbia, Cornell, Harvard, Johns Hopkins, M.I.T., Northwestern, Princeton, Stanford and Yale. Parrish's figures were based upon eight reporting institutions. *Id.*

[82] *Id.* The ten high enrollment institutions were: Berkeley, C.C.N.Y., Indiana, Illinois, Michigan, Michigan State, Minnesota, N.Y.U., Ohio State and Pennsylvania State.

[83] Testimony of Miss Virginia Allan, Chairman, The President's Task Force on Women's Rights and Responsibilities, in *1970 Hearings* 450, 453, citing Simpson, Sex Discrimination in the Academic World (Business and Professional Women's Foundation, 1970).

[84] Testimony of Dr. Victoria Schuck, Professor of Political Science, Mount Holyoke College, in *1970 Hearings* 469, 471.

[85] Only Wellesley, in fact, of the Seven Sisters colleges has more female than male faculty in tenured ranks and in chairmanships. In the rest, male faculty dominate the upper levels and in some cases the lower levels as well. At Vassar, women have dropped from 55.6% of the faculty in 1958–59 to 40.5% in 1969–70. The number of women with full professorships has dropped during the same period from 35 to 16. At Vassar it was thought that a co-educational faculty provided a healthier atmosphere for the women students. The reverse does not apparently apply to Harvard, Princeton, Yale or Brown. Barnard has two more female than male full-time faculty but the men have 78% of the full professorships and chairmanships. . . . Women learn to confine their job applications to co-educational institutions and to women's schools. Men may work anywhere, on the other hand, and can even expect to receive preferential treatment at the best women's colleges.

Harris statement, *supra* note 49, in *1970 Hearings* 252.

[86] Statement of Margaret Laurance, National Association of Women Attorneys, in *1970 Hearings* 1125. In 1962, there were 1,800 women, or 3.8%, of the 49,000 students enrolled in law school.

[87] White, *Women in the Law*, 55 MICH. L. REV. 1051, 1112 n.107 (1967).

[88] Laurance statement, *supra* note 86, in *1970 Hearings* 1124. The Women's Rights Committee of N.Y.U. Law School reported only 35 women faculty members in 36 leading law schools for the period 1968–1970. It also noted that 20% of the N.Y.U. Law School 1971 graduating class are women but that the percentage of female faculty at N.Y.U. is only 1.3%. *Id.* at 586, 591.

[89] National Education Association, Research Division, *Salaries in Higher Education Continue to Grow*, NEA RESEARCH BULLETIN, May 1966, at 50–57. *See also* Bayer & Astin, *Sex Differences in Academic Rank and Salary Among Science Doctorates in Teaching*, J. OF HUMAN RESOURCES, Spring, 1968, reprinted in *1970 Hearings* 1031.

[90] National Education Association, *Salaries in Higher Education 1965–1966*, RESEARCH REPORT 1966-R 2, Feb., 1966. *See also* U.S. Dep't of Labor, Women's Bureau, Fact Sheet on the Earnings Gap, Feb., 1970, reprinted in *1970 Hearings* 17.

Comparison of the salaries of male and female academicians at the University [of Illinois] is possible based on responses to a questionnaire distributed by the American Association of University Professors. Approximately 400 questionnaires were sent to all known female academicians and a sample of males who matched them on department membership rank. For all 84 matched pairs of respondents, the mean salaries reported for 1969–70 were $11,830.38 for men and $10,461.05 for women. These data strongly suggest that men and women within the same departments, holding the same rank, tend not to be paid the same salaries: women on the average earn less than men.

Loeb, Report on the University of Illinois, Urbana-Champaign, Ill., in *1970 Hearings* 1225.

[91] *1970 Hearings* 645.

[92] Harris statement, *supra* note 49, in *1970 Hearings* 256.

[93] *Id.*

[94] Simpson, *A Myth is Better Than a Miss: Men Get the Edge in Academic Employment*, COLLEGE AND UNIVERSITY BUSINESS, Feb., 1970, reprinted in *1970 Hearings* 920, 922 (emphasis supplied). *See also* Simpson, A Study of Employing Agents' Attitudes Toward Academic Women in Higher Education, Sept., 1968 (unpublished doctoral thesis, the Pennsylvania State University).

[95] H. ASTIN, THE WOMAN DOCTORATE IN AMERICA (1969) reprinted in *1970 Hearings* 968.

[96] *Id.* at 971–73.

[97] Rossi, *supra* note 77, in *1970 Hearings* 1250 (emphasis in original). *See also* Harmon, Careers of Ph.D.'s: Academic versus Nonacademic (Career Patterns Report No. 2, National Academy of Sciences) 1968.

[98] *1970 Hearings* 253.

[99] Shaffer & Shaffer, *supra* note 66. *See also* 1970 Hearings 1022, 1023. The Modern Language Association's Commission on Women reported that during 1969–70, five women filed a class action for declaratory judgment challenging the validity of the Arizona Board of Regents' anti-nepotism regulation at the University of Arizona. Upon the advice of the state's attorney's office that the anti-nepotism regulation was probably constitutionally indefensible, the Regents rescinded the regulation during the litigation and the plaintiff's suit was subsequently dismissed as moot. MLA Commission on Women, "On Nepotism" (undated). *See* note 78 *supra* and accompanying text.

[100] Committee on Senate Policy, Report of the Subcommittee on the Status of Academic Women on the Berkeley Campus, May 19, 1970, reprinted in 1970 Hearings 1143, 1154. For additional statements and data on nepotism regulations, see 1970 Hearings 209, 223–24, 1153–58.

[101] 1970 Hearings 494.

[102] *Id.* at 223–24.

[103] *Id.* at 226.

[104] *Id.* at 210.

[105] *Id* at 225. "We found [at Cornell University] . . . that among nonacademic employees there are no high-level women in the administration. Typically the female applicant for a job (with or without B.A. or M.A.) is given a typing test; the male employee is given an aptitude test." Tobias letter, *supra* note 39.

[106] Women's Research Group, Women at Wisconsin, 1970, reprinted in *1970 Hearings* 190, 192.

[107] UNDERUTILIZATION, *supra* note 9, at 17.

[108] Columbia Women's Liberation, Report from the Committee on Discrimination Against Women Faculty, Columbia University, reprinted in *1970 Hearings* 260, 263.

[109] Women's Faculty Group, Preliminary Report on the Status of Women at Harvard, March 9, 1970, reprinted in *1970 Hearings* 183, 186. *See also* Kusnetz & Francis, The Status of Women at Cornell, 1969, reprinted in *1970 Hearings* 1070, 1081.

[110] *1970 Hearings* 214.

[111] NATIONAL SCIENCE FOUNDATION, FEDERAL SUPPORT TO UNIVERSITIES AND COLLEGES, FISCAL YEAR 1968 (Report No. NSF–69–12, Sept., 1969).

[112] *1970 Hearings* 738. *See* 5 U.S.C. § 7151 (1964) which declares: "It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex or national origin. The President shall use his existing authority to carry out this policy." *Cf.* Williams v. McNair, 316 F. Supp. 134 (D.S.C. 1970) (three-judge court), *aff'd*, 91 S. Ct. 976 (1971).

[113] 309 F. Supp. 184 (E.D. Va. 1970). *See also* White v. Crook, 251 F. Supp. 401 (M.D. Ala. 1966) (holding invalid exclusion of women from state jury service); United States *ex rel.* Robinson v. York, 281 F. Supp. 8 (D. Conn. 1968); Commonwealth v. Daniel, 430 Pa. 642, 243 A.2d 400 (1968). The *Robinson* and *Daniel* decisions invalidated state statutes providing for more severe criminal penalties for women than for men convicted of certain offenses.

[114] *See, e.g.*, Alson v. School Bd., 112 F.2d 992 (4th Cir. 1940); Thomas v. Hibbitts, 46 F. Supp. 368 (M.D. Tenn. 1942); McDaniel v. Board of Pub. Instruction, 39 F. Supp. 638 (N.D. Fla. 1941); Mills v. Board of Educ., 30 F. Supp. 245 (D. Md. 1939).

[115] *See, e.g.*, McLaurin v. Oklahoma State Regents, 339 U.S. 737 (1950).

[116] *See, e.g.*, Evans v. Newton, 382 U.S. 286 (1966) (applying the "public function" theory to a racially segregated private park). *See also* Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961) (applying "state involvement" test); Bolling v. Sharpe, 347 U.S. 497 (1954) (applying the concept of equal protection through the fifth amendment to the federal government).

[117] Eastwood, *The Double Standard of Justice: Women's Rights Under the Constitution*, 5 VAL. U.L. REV. 281 (1971). *See* Diaz v. Pan American World Airways, Inc., 3 F.E.P. Cas 337 (5th Cir. 1971) (reversing lower court holding that sex is a bona fide occupational qualification for position of flight attendant). The appellate court, construing § 703(e) of Title VII, emphasized that the words "in those certain cases" and "reasonably necessary to the operation of that business" were chosen by Congress to limit the scope of the section and implied that the absence of such a limitation might open an enormous gap in the law which might "largely emasculate the act." *Quaere*, would the absence of this language in the Administration Bill, if enacted, have any emasculating effect?

[118] Hoyt v. Florida, 368 U.S. 57 (1961); Goesaert v. Cleary, 335 U.S. 464 (1948). *See also* Emerson, *In Support of the Equal Rights Amendment*, 6 HARV. CIV. RIGHTS—CIV. LIB. L. REV. 225 (1971); Dorsen & Ross, *The Necessity of a Constitutional Amendment*, 6 HARV. CIV. RIGHTS—CIV. LIB. L. REV. 216 (1971); Brown, Emerson, Falk & Freedman, *The Legal Basis of Equal Rights for Women*, 80 YALE L.J.—(1971).

[119] 3 C.F.R. 339 (1965). Executive Order 11246 became effective October 24, 1965. Part I of the Order applies the policy of equal opportunity to federal government employment; Part II applies to employment by government contractors and subcontractors.

[120] 3 C.F.R. 320 (1967). Executive Order 11375 amended Executive Order 11246 by substituting the word "religion" for "creed" and by adding "sex" as a prohibited basis of discrimination.

[121] 3 C.F.R. 339, 340 (1965).

[122] See 41 C.F.R. §§ 60–1.1 et seq. (1970).

[123] 35 Fed. Reg. 8888 (1970).

[124] Muirhead statement, *supra* note 59, in *1970 Hearings* 659.

[125] *Id.*

[126] Statement of Chairman, Action Committee on Federal Contract Compliance in Education, WEAL, April 16, 1971.

[127] Fields, *Federal Probes Into Sex Discrimination Provoke Controversy on Campuses*, CHRONICLE OF HIGHER EDUCATION, March 22, 1971. Information obtained from Dr. Bernice Sandler and Dr. Ann Scott, Federal Compliance Coordinator for the National Orgonization for Women (NOW), April 30, 1971.

[128] Telephone inquiry to Mr. Joseph Wiley, Chief of Contract Compliance Field Coordination, Office of Civil Rights, HEW, Washington, D.C., April 28, 1971. *See also* Zwerdling, *Sex Discrimination on Campus: The Womanpower Problem*, THE NEW REPUBLIC, March 20, 1971, at 11–13.

[129] Scott, *Feminism vs. the Feds: Woman's Place in the Work Force*, 2 ISSUES IN INDUS. SOCIETY 39 (1971).

[130] 35 Fed. Reg. 2586 (1970).

[131] 41 C.F.R. § 60–1.3(2) (1970).

[132] Scott, *supra* note 129.

[133] *Id.*

[134] *1970 Hearings* 695. Read into the record by Mrs. Elizabeth Duncan Koontz, Director of the Women's Bureau, Department of Labor.

[135] Information obtained from Dr. Ann Scott, *supra* note 129.

[136] Zwerdling, *supra* note 128.

[137] Some institutions are voluntarily developing affirmative action plans without governmental intervention. Ohio State University and the University of Southern California are two examples. Scott, *supra* note 129.

[138] On April 29, 1971, Special Subcommittee No. 4 approved the proposed Equal Rights Amendment (H.J. Res. 208) but temporarily postponed consideration of Representative Abner J. Mikva's bill. N.Y. Times, April 30, 1971, at 6, col. 4.

[139] 41 U.S.C. §§ 2000a et seq. (1964).

[140] 29 U.S.C. § 206(d) (1964).

[141] 42 U.S. §§ 2751 et seq. (Supp. 1V, 1968).

[142] Section 1001(b) provides:

No recipient of federal financial assistance for an education program or activity shall, because of an individual's sex—(1) discharge that individual, fail or refuse to hire (except in instances where sex is a bona fide occupational qualification) that individual, or otherwise discriminate against him or her with respect to compensation, terms, conditions or privileges of employment; or (2) limit, segregate, or classify employees in any way which would deprive or tend to deprive that individual of employment opportunities or otherwise adversely affect his or her status as an employee.

Compare the language of the BFOQ exception above *with* that of section 703(e) of Title VII of the Civil Rights Act of 1964 which permits a BFOQ 'in those certain instances where . . . sex . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. 42 U.S.C. § 2000e–2(e) (1964).

[143] Section 1002(a) provides:

Each Federal department or agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of Section 1001 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President.

[144] *See* notes 142–43 *supra*. Note also that the Administration Revenue Sharing Bills (H.R. 6181; S. 1234) provide that revenues shared under the proposed act shall be considered federal financial assistance within the meaning of Title VI of the 1964 Civil Rights Act (42 U.S.C. § 2000d) which, as presently enacted, does not include a prohibition against sex discrimination.

[145] 42 U.S.C. §§ 1975 et seq. (1964).

[146] *See* Rossi, *Discrimination and Demography Restrict Opportunities for Academic Women*, COLLEGE & UNIVERSITY BUSINESS, Feb., 1970, reprinted in *1970 Hearings* 923.

[147] *Id.*

[148] Rossi, *Job Discrimination—And What Women Can Do About It*, ATLANTIC MONTHLY, March, 1970, reprinted in *1970 Hearings* 927, 930. This militant mood is not unique. The following comment is typical:

More and more of us are refusing to be insulted by arthritic attitudes about women, whether they come from government, management, or union. If the price of being a lady is to earn 73 cents an hour less as a selector-packer than as a forklift truck operator, then we are going to take the 73 cents and the forklift. If having our cigarettes lighted and our doors opened means we earn half as much as the man who does these things for us, then we will open our own

doors and carry our own matches, and lady be damned. If the government will not help us, then we will picket, sue, confront, lobby, and demonstrate until it does its job.

Scott, *supra* note 129.

W. DON ELLINGER

Mr. KENNEDY. Mr. President, shortly before Christmas, a friendly face appeared in my office and asked:

What is the best organization to which private funds can be sent to assure that they are used to feed, clothe, and house the Bangladesh refugees?

A few such organizations were suggested, and the gentleman was asked what project he was working on now. In his unassuming way, he told us that it was not really a project at all—just a little family undertaking; he explained that every year, each of his nine children saved an amount of their money for donation at Christmas time to a charity or cause of their choosing; that each year he matched the amount of his children's savings; and that the total was sent as a Christmas gift to those whom his family together had decided were most in need.

Always sensitive to the need of others, always sacrificing to fill those needs, always involved, always humble himself, yet always proud of each of the members of his family, Don Ellinger left my office.

When Don left, he left us, as always, full of admiration and respect. He left all of us with an example to follow, an example of how the unselfish and tireless efforts of one man can make such a difference even to those he had never met.

This brief story tells a lot, I think, about the life of Don Ellinger. That life ended on February 12, 1972, when he suffered a sudden heart attack and died at his home in Washington at the age of 56.

Many of the Members of this body knew him well and all of us mourn his loss. Throughout his career, his ability to get things done for the right reasons was recognized by many. Born and raised in Webster Groves, Mo., Don worked his way through Washington University. After his graduation in 1937, he became an organizer for the International Ladies' Garment Workers union in St. Louis, Mo., and later, in Dallas, Tex.

During World War II, he served as field representative for the Fair Employment Practices Commission, created by President Roosevelt, to eliminate job discrimination in some of this country's defense plants. Following the war, Don became an organizer for the CIO in Texas where his talents were quickly recognized, and he was elected president of the Texas State Industrial Union Council in 1947 and 1948. In this capacity he worked in the 1948 election campaign. He became area director for the CIO's political action committee with headquarters at Houston and was involved in many of the key congressional races in the Southwestern United States. After the merger of the AFL and the CIO, he joined the AFL–CIO Committee for Political Education—COPE—and served as director of its five-State Southwest region.

In 1961, Don came to Washington to work under Attorney General Robert Kennedy on the President's Committee on Juvenile Delinquency and Crime. He also assisted in developing President Kennedy's domestic Peace Corps and helped in the development of antipoverty legislation.

On the nomination of AFL–CIO President George Meany and COPE Director Al Barkan, Don was named labor director of the Democratic National Committee for the 1964 congressional elections.

In February 1966, Don was appointed national director of the machinists nonpartisan political league. Since that time, the MNPL has been recognized as one of the most effective and dynamic organizations of political action within the trade union movement.

Those who knew him at various stages of his life spoke eloquently of the Don Ellinger they remembered.

President Floyd Smith of the International Association of Machinists and Aerospace Workers said:

Our union is stronger for the good work Don did; our country is a better place to live for the good work he did. Few men can claim as much.

The Reverend Wallace Ellinger, who officiated at Don's requiem mass at the Nativity Catholic Church, said of his brother:

Epistle: From Mass of St. Joseph The Worker (May 1st): "Whatever you do, work at it with your whole being." (Colossians 3:23).

Gospel: "I assure you, as often as you did it for one of my least brothers, you did it for me." (Matthew 25–31–46).

Each of us is not called to be "the man for all seasons," as poetic touch has labeled the great St. Thomas More. Each of us is called to be "the man for this season"—the time of our lives.

Don "had the time of his life." We know he enjoyed challenge. We know he enjoyed his work. We know he enjoyed life.

Don's season in this world has ended. He had a sense of integration. I don't mean racial integration, although that was obviously there. He had learned to integrate to some happy extent a great love of life ("Whatever you do, work at it with your whole being") and the call to duty ("I assure you, as often as you did it for one of my least brothers, you did it for me").

He respected life so much that he chose not to wear a uniform in World War II.

He respected life so much that he used his life, not just "to make a living," but in the service of other men and women, as well, in the labor movement.

He respected life so much that, while the atmosphere of our fleeting moment in this world whizzes by, tending toward casual killing of the unborn, he and Ruth shared with us nine beautiful works of their and God's creation—all of whom sit here this morning in the shock of loss we all share.

He respected life so much that it was not enough that others live at the "minimum level of peace and justice," and so he accepted a call to help organize the ordinary working people to grow in the love of the Lord—justice.

He respected life so much that human freedom of conscience and action among his children and friends was paramount—even while he tried to "organize them" into his way of thinking.

He respected life so much that, while he often had "problems of Faith"—which would not budge or get out of the way for the god of "scientific evidence"—he, nevertheless, to the last, "persevered in the Faith."

He accepted the Divine Life Jesus gave in Baptism as a necessary adjunct to life in this world, if a living relationship would exist with life in the hereafter.

Work is an honorable activity. But we all have learned that every work is neither equally rewarding, nor even of equal value. And, some works of drudgery have very little to recommend them to rational man.

The history of industrial development, of the labor movement and of big government, is familiar.

Pope Leo XIII (1891) must have done many things, but one that still rings out in his call 80 years ago to re-examine the socio-economic arena so that each workingman gets a fair shake.

Other Popes have added their "amens" to Leo:

Pius XI in his Quadragesimo Anno in 1931;

Pius XII in his Mystici Corporis in 1948;

John XIII in his Mater et Magistra of 1965; and

Paul XI in his Call to Action of 1971.

Through documents of such depth, the Church has sought to express those principles of justice that the labor movement has steadily worked for.

The front-rank labor organizers have been the men of action, seeking that fair sake for the ordinary people. The action folks.

Don has been marching with solidarity over the years with many, seeking social justice—because only through justice can there be peace.

A further word about Don and the Church. He, like all, re-examined his Faith many times over the years. If, today, the ambiguous phrase "liberal Catholic" means anything definite—Don was a "liberal Catholic" long before we heard the phrase.

One could say that the more relaxed Catholic Church of today reflects the kind of Catholic Don has been.

Perhaps his penchant for organizing tells why. He has worked some 35 years organizing men and women to obtain justice. His vision of God's Church-plan had to include good organization—a scene of Faith in Jesus, a set of goals that were within vision, an organized plan of operation. While others have found the Church wanting in their vision, Don remained the life-time combination of real-idealist,—or ideal realist—that found Jesus and His Church a necessary part of his one-time walk on this planet.

He saw that not only unions were concerned about horizontal or vertical ways of functioning, but that also man must be always concerned both about the vertical relationship to the Father and the horizontal relationships with all of our brothers and sisters across the world.

Don has now joined a whole list of persons—some famous—some known only to a small group, who have stepped out of active life here.

As lovers of the Father we believe the Father sent His Son, as Messiah, to "bring us home" to the Father.

Don has now taken that one little step ahead of us. He spent his life serving others.

Jesus says to him: "I assure you, as often as you did it for one of my least brothers, you did it for me."

In truth, Don has had "the time of his life."

At the requiem mass, Gordon Cole, editor of the Machinist, read to those in attendance the words which John McCully, Don's close friend from Texas, had written of him:

For 20 years in Texas and other southwestern states—but primarily in Texas which was his home base—Don was deeply involved in every liberal political activity of any moment. He was a superb political strategist and analyst. He was a political pragmatist but not to the extent that his pragmatism

got in the way of his liberal idealism or his loyalty to the labor movement. I know former Senator Ralph Yarborough spoke the thoughts of many Texans in a telegram to the Ellinger family yesterday when he said: "For 20 years we have worked as brothers for better government for all Americans. Don was noble in thoughts, words and deeds. His accomplishments will aid all American life for generations." That testimonial was echoed this past weekend in the many calls and telegrams from the Texans who knew him well and who still considered him one of their own despite his Missouri birth and his move to Washington. As a national political worker, he still kept his hand in—and rightfully so—when things were happening in Texas. This was demonstrated only recently when he was informed that Senator Yarborough was going to run for his old seat in the Senate. Don's immediate reply was: "We'll be there with him." Now Don, in person, won't be there to help, but he will be there in plans heretofore made and in the spirit of dedication and of work which he has passed along to others.

Although Don Ellinger spent his political years with labor and liberals in the higher echelons, he was no stranger to the drudegry and difficulties down where it finally counts—at the local level. He put in his years as an organizer and in the precincts. He walked the picket line. He was on the receiving end of beatings by antiunion thugs. Don Ellinger was a union man through and through, just as he was a political man through and through.

But above all, Don was a family man, and his nine children and lovely wife are testimony to that. They didn't always agree themselves—what 11 people, however close, do agree? But they argued their respective positions in calmness and without rancor, without lasting bitterness, albeit heatedly and with determination. He was a fierce competitor, a persuasive proponent of what he believed to be the right path to take—and he seldom, if ever, lost an argument . . . or at least admitted to losing.

Family man, political realist, union advocate—these things Don Ellinger was, but, most of all, he was a warm, loving human being with love and sympathy and understanding of his fellow humans.

Mr. Cole, in his own words, then said of Don:

Don Ellinger was an important part of the Machinists Union Family for the last six years. He taught us a great deal and we came to think of him as one of the better things that has happened to our union. Under his direction, the Machinists Non-Partisan Political League matured and grew. No organization is more effective in its field.

He was creative and energetic. He had courage—whether it was starting us on a campaign to rewrite Federal tax laws or arguing with the International President over an adequate budget for MNPL. He took pride in his professionalism, in being the IAM's "POL"—as he called himself. And he was the best.

He was known far and wide and, to this day, I have never heard anyone speak of him in anger or resentment. His love for other human beings was boundless. He had already sent his check for the relief of the Bangladesh.

Don would have been a star on any trade union staff. He was our star.

Yet, I think most of us will miss him for more personal reasons: For being such a convivial drinking partner and traveling companion; for his store of machinist-type jokes that assured him the attention of any audience, for his good parties and his gamesmanship—whether it was those damned word games or his chess.

We'll remember Don as the man who talked so affectionately of his wife and nine children.

And we'll remember him for the plain and simple fact that he was one of the nicest guys to be with, such good company wherever he was.

For myself, I knew Don Ellinger as a man who epitomized all that is decent and good about political action in the labor movement. He recognized that many of the broad social and economic reforms designed to benefit all the people could be secured only through political action. His ideals were high, his approach realistic. He was a persuasive advocate and an eloquent educator in his own quiet way.

He was persistent in his commitment to those whom he represented and tenacious in espousing the causes of those who had no representative. Yet, he was always patient and understanding with those who disagreed with him. No one who knew Don Ellinger could be cynical about politics. No one who knew Don Ellinger could think of the trade union movement as one of special interest. With humble dignity, he worked all his life for the good of others. He was a political activist who saw his role in the labor movement as a means by which he could help working men and women to cooperate with men and women in all walks of life in order to improve the welfare and quality of the whole society.

He loved his job, he loved politics, he loved his friends, he loved his family, he loved life itself. And those who were privileged to be in his company had to love life also, if only for the reason that life had afforded them the opportunity to know Don Ellinder.

He was a close friend and advisor to my brothers as he was to me. To his wife, Ruth, to their nine children, to his sister, and two brothers, to his many friends, I offer my deep sympathy knowing personally of the loss which they all feel.

Just as on that day when he left my office, Don left us, as always, full of admiration and respect. He left all of us with an example to follow, an example of how the unselfish and tireless efforts of one man can make such a difference even to those he had never met.

PERSPECTIVE ON JAPAN

Mr. SYMINGTON. Mr. President, one could only read with interest an editorial entitled "Perspective on Japan," published in the Wall Street Journal of February 23.

Having visited in that country recently, I read with unreserved approval the following last paragraph of that outstanding editorial:

We most assuredly do want good relations with the People's Republic, but it will be a great loss if some quirk of the public mind, some lapse in perspective, means that this occurs at the expense of our strong relations with Japan.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PERSPECTIVE ON JAPAN

In the flood of television specials on the China trip, we've noticed at least two that have revived anti-Japanese film footage from World War II. While this does provide some kind of historical perspective in which to view relations with China, the current trip also means there is more than ever a need for perspective in our relations with Japan.

The type of film in question was used to propagate a spirited hate of the Japanese and a profound sympathy for the Chinese, e.g. Japanese soldiers terrorizing Chinese villages, bayoneting civilians and prisoners of war. Of course, such incidents are part of history, and this kind of propaganda had its place in galvanizing American patriotic fervor during the war. But we hope viewers retain a good grip on how little it tells about the present moment.

Especially so since it was only a year ago that the American public was led to clamor against the threat of Japan Inc., which was flooding the United States with imports and throwing American workingmen out of their jobs. There was undoubtedly some cause for this clamor, but now may be a good time to observe that much has occurred in U.S.-Japanese relations in the past year. Japan has conducted itself most admirably throughout this period of "Nixon Shock," the surprise announcement of the Peking trip and the new economic policy of Aug. 15.

Clearly, Japan has since done everything the United States reasonably asked it to do and much that must have seemed unreasonable to the Tokyo government.

It agreed to a 16.88% revaluation of the yen, a quite astonishing realignment to absorb in one swallow. Then, in the bilateral trade negotiations just concluded, Japan made concessions that Treasury Secretary John Connally indicates "will probably help our trade situation to the extent of $600 million to $650 million a year." Mr. Connally observed that "they were sympathetic, considerate, and they went about as far as they thought they could go at this time."

He could have added that while a number of U.S. trading partners in Western Europe continue to gripe about "the dollar overhang" in Europe, pushing the United States to restore convertibility of the dollar into gold or other reserve asset, Japan has been solicitous, undertsanding and most reasonable.

Clearly these recent Japanese actions should be regarded as important signals that they want to continue and strengthen their ties with the United States. In any event, whatever the history of World War II, Japan today is not only a vastly important Asian power but a nation that has, compared to the record of most of the world and particularly of Mainland China over the past few decades, governed itself through humane and civilized procedures.

We most assuredly do want good relations with the People's Republic, but it will be a great loss if some quirk of the public mind, some lapse in perspective, means, that this occurs at the expense of our strong relations with Japan.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EDUCATION AMENDMENTS OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 659, which the clerk will read by title.

The assistant legislative clerk read the bill by title as follows:

A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The ACTING PRESIDENT pro tempore. The pending question is on the adoption of the amendment by the Senator from Minnesota (Mr. MONDALE) as amended by the amendment of the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. SCOTT).

Mr. MONDALE. Mr. President, I ask for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. MONDALE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I call up as a perfecting amendment to the Mondale amendment, amendment No. 919.

The ACTING PRESIDENT pro tempore. The clerk will read amendment No. 919.

The ASSISTANT LEGISLATIVE CLERK. Mr. ERVIN, for himself, and Mr. ALLEN, proposes, as a perfecting amendment to amendment No. 936 by Mr. MONDALE to the committee amendment offered as a substitute for the House amendment to S. 659; before the word "all" on page 1, line 1, insert the following:

"No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.

"The prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof."

Mr. ERVIN. Mr. President, I should like to state at this time that I am going to vote against the Mondale amendment, despite the fact that I think we ought to have the same laws in the South, the North, the East, and the West. I am going to vote against it because the Supreme Court of the United States declared 23 times in the Swann case that Congress has no power to legislate in respect to de facto segregation—23 times. I will read one time it said that. On page 12 of the original opinion in the Swann case the Court said:

To do this as an educational policy is within the broad discretionary powers of school authorities. Absent a finding of constitutional violation, however, that would not be within the authority of a Federal court.

In other words, the Federal court has nothing whatever to do with the assignment of children to public schools in the States in the absence of a finding that there has been what we call, for want of a better name, de jure discrimination.

Mr. President, on yesterday the Senate indulged in a lot of verbal camouflage by adopting the Scott-Mansfield or Mansfield-Scott amendment, which does not change in one iota any existing provision of law other than a little matter that is mentioned in section (c). When you take all of the gobbledygook out of section (a) in the Scott-Mansfield or Mansfield-Scott amendment, it comes down to this and nothing more—that no Federal funds shall be spent by a State to desegregate a school unless the State agrees to do so.

That was the law before we passed the amendment. It will be the law until the last lingering echo of Gabriel's horn trembles into ultimate silence, unless we abolish the States as separate governmental entities from the Federal Government.

So it does absolutely nothing except to create some camouflage which is designed to conceal from the general public the fact that it does nothing whatever.

The same observation is true with reference to subsection (b) of the amendment. The first section of this amendment says, when its linguistic gobbledygook is reduced to plain English, that there will be no busing of children at the order of the Federal Government except in those cases where the Constitution, as interpreted by the courts, requires it. Well, that is the only instance now in which we have any busing of children at the instance of the Federal Government. So that provision does not change a single jot or tittle in the law, and it is just so much verbal camouflage to delude people into thinking that Congress did something.

The second section of subsection (b) of the amendment is likewise a do-nothing provision because it says, laying aside all the linguistic camouflage and gobbledygook, busing shall not be required under the circumstances set forth in the Swann case. So this subsection (b) does nothing except to deceive some people.

Subsection (c) is likewise almost entirely a do-nothing provision, except in one respect: It does away with the House provision which required that there be a stay of a decision requiring busing until appeals had been exhausted or the time for appeals had expired. This provision restricts that, and applies to only one case, so far as I know, that has ever arisen in the United States, and that is the case in Virginia where Judge Merhige crossed the boundary lines between different subdivisions of Government and ordered a consolidation of the school systems of two independent counties and an independent city for busing purposes—for the purpose of busing 87,000 little schoolchildren.

But subsection (c) expires even as to the Virginia situation at midnight on the 30th of June, 1973; and before this case involving the schools of Richmond and Henrico and Chesterfield Counties can reach the Supreme Court, the 30th day of June, 1973, will be a part of history.

So we have got so much verbal camouflage, so much linguistic exercise calculated to do only two things: To deceive the public into thinking that Congress has done something when it has done nothing, and to postpone this whole question of whether the little children of this Nation are going to be granted any relief against Federal tyranny beyond the next election.

I do not call this an exercise in futility; I call it an exercise in duplicity, because it is done clearly to deceive the general public into thinking that Congress is doing something to relieve, to some slight degree, little children from fearful tyranny.

"Oh," they say, "we have got to mix little children racially; we have got to send out the Armed Forces, the police forces, the U.S. marshals, or some other coercive force to mix the little children together to show that the schools are opened to people of all races."

Mr. President, it would be just as sensible, just as intelligent, to send a U.S. marshal out to arrest adults of both races, all races, and make them all go swimming in the same public swimming pool at the same time, just to show that the public swimming pool has been desegregated.

But, you know, politicians will not do that to adults. Adults have votes, but children under the age of 18 years do not. In the city of Charlotte, under the decision in the Swann case, little first, second, third, and fourth grade children, thousands of them, are bused out of their neighborhoods into strange neighborhoods. Many of them have to leave their home around 6 o'clock in the morning, and many of them do not get back to their homes until 5:30 or 6 o'clock in the evening. I do not know what other Senators may say or believe, but I say that the Senator from North Carolina, as long as the good Lord enables him to retain the faintest glimmer of intelligence and the faintest sense of fairplay, is not going to support any such tyranny.

I want to try to clear up another species of hokum which has pervaded this debate. It has been said that many States voluntarily bus children, and that is true. But the distinction between the kind of busing the States do and the kind of busing which is required by the Federal Government is very marked. The difference between Tweedledum and Tweedledee is as wide as the gulf which yawns between Lazarus in Abraham's bosom and dives in hell, as compared to any similarity which exists between these two types of busing. The States bus in order to transport children to the nearest school available for the education of children of their ages and educational abilities. The Federal Government orders busing in order to transport the children away from the nearest school to some other schools, many of them greatly distant, not to enlighten their minds but to integrate their bodies. The only theory offered to justify this is the theory which is an insult, a rank insult, to black children. The theory is that a black child cannot acquire an adequate education unless he has the enforced companionship of white children, even if those white children or the black children have to be hauled long distances on

buses in order to integrate their bodies.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ERVIN. I yield 7 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that my name be listed as a cosponsor of amendment No. 919 offered by the distinguished Senator from Alabama and the distinguished Senator from North Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I wish to speak, of course, in support of the amendment, because the amendment would do what has been intended here and what has been described in the morning press—as having already been accomplished that is, that we have faced up to the issue, that we have eliminated discrimination, that we have avoided a constitutional amendment, and instead enacted a great statute which is the leadership compromise, as they call it.

This amendment, by the Senator from Alabama and the Senator from North Carolina, provides:

> No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.

It is merely a rewording of the constitutional provision under the 14th amendment. It continues:

> This prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof.

Mr. President, I did not know that was going to be the pending question, in a sense, when I came to the floor; but it is easy to compare it to the Mondale amendment. Specifically, the Mondale amendment is drawn with design; and like the octopus when it is caught in a jam, it squirts out its ink and steals away in the dark of that ink.

I have the highest regard for the distinguished Senator from Minnesota, because I think he is sincere, talented and a very able Senator. I have a hard time explaining him down in South Carolina, because every time I stand up for something, he is on the other side, or vice versa. He said, "Look what we're going to do. We have a provision that all requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation.

When we debated that issue for some 4 to 5 weeks a year ago, when there was really a chance to find out the true colors as to whether they wanted equal application and equal justice under law—the Stennis-Russell-Hollings amendment—the Senator from Montana said, "Let's study it." This is a very, very complex thing. What we ought to do is start studying this thing and get a committee and really hear the people out. I do not believe we have heard from the people.

Well, he had not. He was just beginning to hear from the people in Minnesota and New York and Jackson, Mich., what we had been saying in Jackson, Miss., for several years. So he got his committee together. In the meantime, the decision came out in the case of Swann versus Mecklenburg County, on de facto busing, and it said that you could not legislate on this particular score.

So the Senator from Minnesota said, "Well I will tell you what. It really would not mean anything. The Supreme Court—Chief Justice Burger—has already said it, so I can get on the side of the angels in the Stennis amendment for equal application," which we fought here and for which he got a study committee. He said, "I can write that down and go around and tell everybody that is what I have been for all along. So I will write down that it shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation, and I will get credit for that, knowing all along that under the Supreme Court decision it just would not happen. The provision would not last 5 minutes before the Supreme Court."

The distinguished Senator from North Carolina has already pointed it out. He was of counsel for the Mecklenburg County teachers. It all occurred in his backyard. So we can clear our record on that particular score.

If we try to come out for equal application, using the expression used by Chief Justice Burger, it shall not apply. Then if there is any doubt about what is really intended, he is going to get together with the cosponsors—now indicted—the distinguished Senator from Pennsylvania and the distinguished Senator from Montana, the leaders on this point, who put up the leadership amendment; and he says, "I'm going to copy down verbatim, word for word, the leadership amendment." And you are going to see where it leads.

Our insurance lawyer no doubt drafted it. It says in three sections, on which we had three votes yesterday, substantially this, and this is why we opposed it.

Certainly, if the country is confused on one thing, it is confused on busing, and it is really due to our great friends in the news media. They do not follow the story; they do not read the story; they do not understand the story; and they have in the headlines this morning, all over America, that those who opposed busing are for it and those who are for it opposed it. I can point out any news story in Washington or go down to my home town and show the same confusions.

Let us not confuse the fundamental constitutional right. What is really involved is not the bus. We pointed that out yesterday. It is what is on the end of the bus line—the school and the facility.

We, as politicians, are mobile; we move, buy and sell homes, live in different places and have different roles in public life and other endeavors. The average American buys a home. That is his constitutional right. That is what he works for—his security and his family and a home in a neighborhood of his own choosing. Then, having worked all his life and acquired his mortgage, he moves into the home and settles down. He makes friends, and his children make friends, and all is well until some group of Washington politicians and Federal judges say, "No, you're not really in a neighborhood. You're unconstitutional over here. We have to take your children from Virginia and run them to the District of Columbia." That is the Richmond decision. Or, "You have to run them up to Maryland, because they don't have quality education."

All the Democratic Presidential candidates are running around and babbling, "Quality, quality, quality." It is not quality. It is safety.

Mr. President, will the Senator from North Carolina yield me additional time?

Mr. ERVIN. I yield not more than 5 minutes to the Senator.

Mr. HOLLINGS. I would like to emphasize the Washington Post article. In St. Louis, Mo., they built a structure for the poor, and it contained 11 stories. Some architect designed foyers on each floor, so the building would be esthetically appealing. They were raping so much in the foyers of the 11-story building for the poor that they had to wire off and block off the foyers. Then they were so subject to being burglarized, bilked, robbed, and rolled that the poor would not go into the building.

Now they have taken an acetylene torch and are cutting down that 11-story building, which is in the backyard of the Presiding Officer, cutting it down to five stories, for safety.

The people of Forest Hills are not racists. They want to live in a safe neighborhood. And that is their constitutional right. At 8 o'clock in the morning, every mother has a constitutional right to get rid of the children and get them out of the house and send them safely to a school in a safe atmosphere. If this Senate and the House of Representatives does not understand that constitutional right, they will be sent home and there will be another group up here. That is a constitutional right, to give the child peace of mind, safely to go to school in a safe area, which the parents have selected and in an area where they have invested their life savings.

Yet we run around babbling "quality" when there is no quality at all. It is not world peace; it is peace in the home. That is what we have disrupted and with this mish-mash, crisscross busing operation, the people of America want the leadership to stand foursquare, face the issue, and eliminate the discrimination.

In section 1 they say, in clear-cut fashion, that in those areas where the school authorities request the funds, there will be busing, but where they do not, there will not be busing. So if Johnny lives where they have not requested the funds, Johnny asks his mother, "Why can't I ride a bus because Mary on the other side of town does," the answer would be because the authorities over there requested funds, so Mary rides.

Well, any freshman law student can knock that out. Any insurance lawyer knows about that. We will talk about eliminating discrimination but we will write discrimination into the first section, knowing it will not last the time of day. Bam—No. 1, it is gone.

The second provision is the Country Club of Fairfax provision. It tells the politicians—and this is what George

Wallace is talking about and why he makes sense, "You are not facing up to it in Washington at all." Of course, we are proving that. The leadership, Republicans and Democrats, can agree on very few things but they can agree on one thing. "Take care of our crowd—Take care of our children."

Mr. ERVIN. Mr. President, I yield 5 additional minutes to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 5 additional minutes.

Mr. ERVIN. If the Senator will yield there, they agree there should be no busing in Pennsylvania but there shall be busing in South Carolina and North Carolina.

Mr. HOLLINGS. Oh, yes. Oh, yes. We will get to that. There will be busing in South Carolina. There will be busing in North Carolina, but none in Pennsylvania, none in Minnesota, none in Jackson, Mich.—but in Jackson, Miss.—yes.

So they put that in and say, "You are not going to transfer them across the district line into an inferior area. We have taken care of the suburbanites and the politicians in Washington." They are not disturbed. Of course, they can get a majority vote in the Senate, as they did yesterday and as the report showed in the morning newspapers.

Was that not great, that they got together on restricted busing? Yes, that is what they agreed to—the majority of Republicans and Democrats.

Then they say, "Look, we have us a real problem. We have got to limit what we are doing. So what we will do in the third section will be to stay everything. We will not have any orders. Just let us do away with court procedures."

Here, in the name of facing up, look at the verb in the sentence there. The verb is the word "postpone."

All these glowing things said by the leadership as to how they faced up. But the last phrase in here says "postpone." We just are not going to face up to anything. We are going to postpone. They say, "Ah, reelect us all. Reelect me. Reelect President Nixon. Reelect the Senator from Pennsylvania. Then, after they are all reelected next year, in 1973, lower the boom and let the court fall on them again."

Mr. ERVIN. Mr. President, I yield 5 additional minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. CHILES). The Senator from South Carolina is recognized for 5 additional minutes.

Mr. SPONG. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

Mr. SPONG. I should like to ask the distinguished Senator from South Carolina if, in studying the legislation which the Senate adopted yesterday for the time being, he could find anything in that legislation that improved the educational opportunity for a black child in the city of Chicago?

Mr. HOLLINGS. Nothing whatever. Do not be disturbed. That is right. Have no fear. We will take care. We will take care of the de factos. The constitutional rights and all the other phrases, they are included in it. This does nothing but says that the Congress of the United States will not face up, that it will continue discrimination and will not disturb anyone until after the election.

Mr. SPONG. If it does nothing for educational opportunity for a child in Chicago, would the Senator from South Carolina say that the legislation is not really concerned with equal educational opportunity?

Mr. HOLLINGS. None whatever. The question of the Senator from Virginia goes right to the heart of the matter. It is not equality. I see some other friends of mine around here on their feet, getting ready to talk. I have heard all about the striving, who has stayed up nights, who has sweated, who the racists are. I learned that at the hands of Thurgood Marshall. Thurgood Marshall says, "No child shall be denied admission. No child shall be forced on a bus on account of race." That is fundamental in this country. We are not going the change the 14th amendment here. But, of course, they do not want it to go into their backyards. The freedom of choice statute that we copied down home we copied from New York, where there is still an 8- by 44-block area that is 99 percent black. There is no unitary school in Brownsville. I have been there. I have been down in Harlem, Brooklyn, and Brownsville. Go down there and they can all find lessons to give us Southern brethren and we will get equal justice under law. Do away with discrimination. Then they come around writing this sort of amendment and they say that they have faced up to the problem. They know differently. They have avoided, evaded, weasel-wormed around in every fashion possible. If we are going to face up to this problem, as I stated here yesterday, the answer is: Build a better mouse trap. We will develop quality education by putting more money into schools, and by paying teachers more money.

We have done that in South Carolina. We have tried it. We put on a 3-percent sales tax, which is now 4 percent. We have put on every tax that any other State ever thought of. We have done much more at the State level and with State effort. South Carolina has made far greater State effort on State school comparably, for example, than has Rhode Island in trying to build and bring in quality education. That is what we are talking about here. If we get a good school building and good teachers, a good curriculum, a good athletic program and build them all up—and I am willing to vote the money to put those things into ghetto areas where it will be necessary—then those in the country club will pitch in and buy a bus to get their children down to that good school, because we all want the best education for our children. But the other way will be to destroy, in the name of eliminating discrimination, our fundamental rights.

I yield back any remaining time I have to the Senator from North Carolina with many thanks.

Mr. PELL. Mr. President, I must say that I enjoy listening to the Senator from South Carolina. I would be delighted to yield on my time, because it is a delight to be attacked by him. It reminds me of Friar Tuck of Robin Hood's band who was known for his ability to lay his staff upon people. The victims almost enjoyed being belabored by him because he did it with such grace and good humor.

I think that many of the points the Senator makes are valid. What the Scott-Mansfield amendment lacks in the view of the Senator is that it does not get to the red letter word—busing. The word which is of such great concern to our country. The Scott-Mansfield amendment recognizes that busing is one of the means of trying to achieve an integrated school system.

This pending amendment gets to the fundamental question as to whether we should have an integrated school system. There are varying and different views on this question. There are those in this body who do not believe we should have an integrated system. There are some who think that we should. And, amongst those who think that we should, there are those who think that it should have happened yesterday, today, tomorrow, or the day after tomorrow.

The essential point is that the pending amendment, if approved, would stop in its tracks our efforts to achieve an integrated school system. If we believe an integrated school system is undesirable, then we should vote for the amendment. However, if we believe that our goal should be an integrated school system, then the amendment should be opposed.

In regard the Senate adoption of the Scott-Mansfield amendment, I would agree with the Senator from South Carolina that it is a complicated piece of legislation whose meaning needs interpretation.

I thought there was a very good one-paragraph description of the amendment in the New York Times today in an article written by John Herbers, who did what many of us find difficult, he made the complicated seem simple.

I would like to read that one paragraph of the article into the RECORD. It reads:

> The Mansfield-Scott legislation would deny the use of Federal funds for busing except at the request of local authorities; order the Federal authorities to refrain from ordering busing if it would impair the health of a child or take him to a school inferior to the one in his neighborhood; and delay, pending appeal, enforcement of any court decision ordering desegregation across school district lines. This third provision would not apply beyond June 30, 1973.

Mr. ERVIN. Mr. President, would the Senator yield for a question?

Mr. PELL. Certainly.

Mr. ERVIN. Mr. President, did not the law prior to yesterday prevent the use of Federal funds to integrated schools unless the State accepted those funds?

Mr. PELL. Would the Senator repeat his question?

Mr. ERVIN. My question was whether the law did not prior to yesterday provide that no Federal funds could be expended by a State to integrate its schools unless the State agreed to accept those funds?

Mr. PELL. My understanding of the law is that that is not correct. However, I stand to be corrected by those who are lawyers.

Mr. ERVIN. The second sections deals

with State funds. The first section deals with Federal funds. What the amendment adopted yesterday, in the first section in the ultimate analysis means is that no Federal funds will be given to a State and spent for integrated busing unless the State agrees to accept the funds and use them for that purpose. Has that not always been the law?

Mr. PELL. If that is a question of law and not of interpretation, I would defer to the former judge and lawyer, the Senator from North Carolina. My understanding of the law is that that was not the case.

Mr. ERVIN. The first section does not deal with anything except Federal funds. I would tell my good friend, the Senator from Rhode Island, that this is what has always been the law and is still the law, and that is that Federal funds cannot be used by a State to integrate schools unless the State is willing to accept the funds for that purpose.

Mr. PELL. The Senator's question is whether the first section has changed the law?

Mr. ERVIN. The Senator is correct.

Mr. PELL. My understanding is that the first section has changed the law.

Mr. ERVIN. How?

Mr. PELL. By saying that it would require the local authority to opt to spend the funds. There is mention of a Court in the second section. However, on this question, I would like to defer to the judgment of the Senator from North Carolina, who is a former judge, and to the Senator from Minnesota (Mr. MONDALE) who is a former attorney general of the State of Minnesota. I note that the Senator from Minnesota is on his feet.

Mr. ERVIN. There is not any word about a court in the first part except that it states that no court can make a State spend funds, except funds it does not want to spend on its own—that is, Federal funds.

Mr. MONDALE. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I will yield to the Senator from Minnesota. However, I think the Senator is asking whether this has changed the law. I said it had. The Senator asked me how. I said that I think it has changed. I ask the Senator from Minnesota to correct me if I am wrong.

Mr. MONDALE. I think one of the questions here surrounds the clarification of the law in a complex situation.

To make it clear, funding can be made available to local school districts that want it. Several attempts have been made to change the committee amendment, but the classic one would prohibit the Federal Government from making funds available to any school district, whether it is desegregating under court order and wants the funds, whether it is desegregating under an administrative order and wants the funds, or whether it is desegregating on its own without any regard to any court or administrative order because the local community wants to have an integrated school system.

There are nearly 1,500 school districts in this country today which are desegregated under court or administrative order. Eleven million schoolchildren are in those school districts. And these school districts, whatever we do here today, that are under orders to desegregate are in the middle. They have no choice. They have to desegregate. The question is whether we are going to help them or not.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I will yield as soon as I finish my point. I want the Senate to listen to what the superintendents in the school districts are asking for. They are asking for money. And we want to make it clear that under the Mansfield-Scott amendment they are eligible to have the money if they want it.

This is what the head of the Dade County, Fla. school system says:

> If we are to survive as a county or as a school system, we are going to have to lick the battle of desegregation, regardless of where it is located or what type of desegregation it is . . . this is a massive thing. We are trying to change attitudes that have been building up for 200 or 300 years, and we are not going to change them overnight unless we have some help.
>
> I think the initial step, though, has to come from us. We have to offer the leadership . . . so that is our responsibility. But once we take that responsibility, we have to have some financial help because these problems are monumental.

He then said:

> The financial impact of desegregation is placing severe demands and burdens on the affected school systems.

Mr. President, other school superintendents agree. For example, superintendents from Tampa, Fla., Savannah, Ga., Dayton, Ohio, and Rochester, N.Y., pleaded before the Select Committee on Equal Education Opportunity, for funds to support transportation for integration.

The amendment we adopted yesterday makes it clear that we want those districts to receive assistance. Regrettably, it is the policy of the present administration not to help them, even though they are under Federal or State order to desegregate.

I think it is a very salutary clarification.

Mr. ERVIN. My question is whether the Senator from Minnesota contends that there has ever been any law in effect in this country that the Federal Government could require a State to accept funds from the Federal Government and spend them for any purpose unless the State was willing to accept those funds.

Mr. MONDALE. I am not sure the Senator got my point. There is an administrative decision. This is a complex issue, not alone one of court orders, but administrative policy, as well. It is the administrative policy that regrettably tells the school districts that are desegregating that they will or will not receive any help, even if the law says they should.

In my opinion, what the leadership tried to do in this amendment was to make clear that the school districts which want help and are eligible to receive it under the law will do so.

Mr. ERVIN. The Senator did not answer my question yet.

Mr. MONDALE. I have tried to do so.

Mr. ERVIN. I mean no offense, but the Senator has not accomplished anything in his effort to answer the question.

Mr. MONDALE. I do the best I can with my limited legal background.

Mr. ERVIN. Has there ever been any law in existence in this country whereby the Federal Government could compel a State or State agent to accept funds when the State agent was not willing to accept them?

Mr. MONDALE. My point was that there is now an administrative ruling which prohibits offering such help, even where they are requiring busing, and we are trying to make clear by this amendment that those districts that want it shall receive it.

Mr. ERVIN. The question is: Where did such an administrative ruling originate?

Mr. MONDALE. From the administration.

Mr. ERVIN. What part of the administration?

Mr. MONDALE. I think very high up.

Mr. ERVIN. I would tell the Senator from Minnesota that the first article of the Constitution states that all legislative power of the Federal Government is vested in the Congress and none is vested in the executive branch of Government, so there could not be any ruling made by the executive branch.

Mr. MONDALE. That may be true, but $12 million we appropriated has been impounded, in my opinion illegally, and I join the Senator in objecting to that.

We had an amendment here a year ago to provide help for busing under court order and this administration refused to do so. I think the leadership was trying to say whatever else we do we should not turn our back on those districts caught in the middle and provide no help. That is the least we can do.

Mr. ERVIN. The Senator from Minnesota stated a moment ago that the perfecting amendment we brought to his amendment is designed to prevent desegregation of the schools. I read that amendment:

> No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.
>
> This prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof.

The Supreme Court has declared that the State is required to establish a unitary school system. It stated in Norcross against Board of Education of Memphis that the unitary school system is one "within which no person is to be effectively excluded from any school because of his race or color."

All we are trying to do is to require the establishment of unitary school systems. It is surprising to the Senator from North Carolina, and I think also the cosponsors of this amendment, that the Senator from Rhode Island and the Senator from Minnesota are opposing an amendment which requires the establishment of the unitary school system in which no person shall be excluded from any school.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I have listened with great interest to this colloquy. The point that has been left out completely is the fact that this applies not to States but to local school officials, and most States are divided into localities.

The reason for the provision is one-half as the Senator from Minnesota explained, in the affirmative—that is, to enable the school district, whatever their States may feel, to obtain help to desegregate pursuant to court order.

The other half is that here is the Department of Health, Education, and Welfare exercising its power to cut off funding; they may be able to cut off funding if a local school district did not request what HEW thought it should request according to a mandate for desegregation. This would clarify that matter and enable the school district to make up its own mind, because the law will allow it not to request such funds.

Mr. HOLLINGS. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Not yet, but I will yield in a moment.

The PRESIDING OFFICER. The Senator from New York has been recognized.

Mr. JAVITS. Beyond that, I am interested in the argument that all the Senator from North Carolina is trying to do is to give us who are contending for the bill the opportunity to have unitary school systems. The complete fallacy in that argument, and what makes this amendment completely unconstitutional, is the fact that the courts are dealing with segregation which has existed; they are not dealing with the creation of new unitary school systems. They are dealing with repairing the evils of the past, and those evils are performed not only in the South, but also in the North and in the West.

The court decided in the Green case in 1968 that in order to effectuate the 14th amendment and deal with previous evils it had to move affirmatively, and it had to order a segment of students to schools because that was the only way to redeem the sins of the past.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. JAVITS. I shall yield in a moment.

This amendment is designed to completely inhibit that process. It is to cut off the ability to repair what has been done that is wrong. It is as simple as that and, regardless of any veneer that is placed on it, that is what it will do.

The Senator is trying to help us to have the unitary school system by eliminating in one stroke the only way the Court has said there can be a unitary school system, where the dual system has been assigned for decades; that is the real nub. How can you correct discrimination if you are going to eliminate the means for correction? The question is that if this amendment is agreed to will there be a unitary school system or not?

Mr. HOLLINGS. The Senator talks about redeeming the sins of the past. I do not know that that is necessarily constitutional. But assuming it is, what about New York? When are they going to redeem the sins in New York in that 8 by 44 block area where there is no unitary school system? What is the Senator's answer with respect to that?

Mr. JAVITS. I have been here a long time. I argued civil rights acts, since 1957. There is always the argument that New York, Chicago, and San Francisco failed to measure up to any standard the court has set. We measure up to stronger standards because the court threw out an effort to inhibit the Commissioner of Education to bring about racial balance through legislation stronger than anything here.

New York will stand up quite well when placed side by side with what is being perpetuated in other States. If the entire country were following the standards that New York is endeavoring to follow we would have fewer problems. We have tremendous difficulties, just as they have in other parts of the country. We would be a lot further advanced along this line than we are if we had the kind of Federal Government support contemplated by this bill. I am sorry, but I cannot accept the Senator's argument.

Suppose New York blatantly violated the law as Mississippi did in 1956, 1957, or 1958. Is that any excuse for Mississippi? Of course not.

Is the fact that there are a lot of drug pushers around in New York, San Francisco, or other places any reason why drug pushers should not be jailed in Washington, D.C., or Peoria, Ill.? Of course not.

I cannot accept that argument. It has been used here time and time again. It does not stand up on the facts, and I do not think it can guide or prevail upon the judgment of any Senator worthy of the name.

Mr. HOLLINGS. Perhaps; of course, the Senator talks about a red herring, but it is more or less a red fact. We were in violation in the school in my backyard. My alma mater now has 45 percent black enrollment. This is a red fact. When the Senator talks about redeeming the sins of the country, when we look at the words, as they say, what counts is not what we say but what we do.

But let us move ahead, because the Senator from New York is a good lawyer and is a constitutionalist. When section (a) says "except on the express written request of appropriate local school officials," does not that discriminate between a child on the one hand whose school officials ask to get Federal funds to have him bused and a child whose school officials do not ask for busing money? Does not that make it unconstitutional?

Mr. JAVITS. I do not think it does. What the courts have been dealing with and what we are dealing with is unconstitutional discrimination, not any discrimination. I discriminate when I go to the Senate restaurant and not go downtown to another restaurant. We discriminate every day. The question is: What is unconstitutional discrimination? And the unconstitutional discrimination inheres in the perpetuation of a system of public educational discrimination against the particular child.

What we are doing now in this particular amendment is regulating a source of funds for that purpose. I would like to point out that when it comes to State and local funds, which is in section (b), the qualification is very distinctly reduced, unless constitutionally required. That is on page 2, line 21.

Mr. HOLLINGS. The Senator agrees that that perpetuates it——

Mr. JAVITS. If the Senator will just let me finish, it seems to me that that indicates our care, our solicitude and concern that funds should not be cut off, and that we are cutting off funds in (a), unless requested by the local educational agency.

Mr. HOLLINGS. Does it not perpetuate it if my school officials do not ask for busing and the child cannot get a ride to that school?

Mr. JAVITS. What it does, as I say, is cut off that particular source of financing the change. If the courts order it, there is some use of funds of the educational agency other than Federal funds?

I am not pretending by any means that this compromise is other than a compromise. I do not like the idea that Federal funds are cut off. I do not like susbection (a), and I do not like subsection (c).

Mr. HOLLINGS. Oh——

Mr. JAVITS. If the Senator will let me finish.

Mr. HOLLINGS. Yes.

Mr. JAVITS. It is on my time. I have yielded. I have been courteous. The Senator will at least let me finish the sentence.

All I am saying is, sure, this is a compromise, but those who would break the back of this bill by eliminating—which is what the purpose is—the single most important instrument to try to bring about better conditions—not the optimum, not the best, but better conditions—are not quite the people who should be arguing in the Senate that we are compromising something, that we are letting down some things, that we are not doing as good as we ought to do. This is a very old technique that I am familiar with. You ask for the ultimate and you break the back of what is possible, what can be done.

So we have fashioned, to the best of the ability of the leadership and those who have supported the leadership, this compromise in order to get the maximum progress forward in this particular field.

I have just pointed out, in the differences between subsection (a) and subsection (b), why I feel this is a bad compromise, considering the situation we face, and I believe it is constitutional for those reasons.

Mr. HOLLINGS. At least we know now the Senator does not like subsection (a).

What about subsection (b) with respect to risking the health of a child or significantly impinging on his or her educational process? Does the Senator think that race would impinge on the educational process or destroy the health in any way of a white child who was to go with a black child, or of a black child who was to go with a white child?

Mr. JAVITS. I think these abstractions relate to questions for the Court—answers will vary from case to case—and by subparagraph (b) we have introduced the criteria by which they may be judged. I think those criteria are essentially the criteria as set out in the Swann case, with the qualification which we have made here which I think is a critically important aspect in this whole measure and which, unfortunately, is inadequately noted. That is that the Congress, if this becomes the law, has now introduced the criteria that impinging upon the educational process of the children in the school to which the child is bused also becomes a pertinent element here and a criteria upon which the courts and government departments can judge.

To me, that represents a critically important expansion of the idea which begins to be phrased in the Swann case. I think that is a very significant, perhaps the most substantive, to me—I speak as one Senator—aspect of this amendment.

Now, as to the question respecting the educational process which the Senator has raised, I can only refer the Senator to a very interesting case, the case of Lee against Nyquist, which is a case decided by a three-judge Federal district court in my own State, and which subsequently was affirmed by the U.S. Supreme Court without opinion. That was a case respecting an effort to limit the power of the Commissioner of Education of the State of New York to correct racial imbalance where he felt there was educational deficiency. The legislature sought to restrict his authority in that regard, and that was stricken down as unconstitutional. I cite that opinion because I think it is critically important to our discussion here, because we have said it time and time again, and we say it in the matter before us, but it is very interesting. I read from the opinion, on page 714, where it says:

> Although there may be no constitutional duty to undo de facto segregation, it is by now well documented and widely recognized by educational authorities that the elimination of racial isolation in the schools promotes the attainment of equal educational opportunity and is beneficial to all students, both black and white.

I think that is an extremely pertinent conclusion come to by a Federal court in respect of the substantive aspect of our argument.

Mr. HOLLINGS. Well, if the distinguished Senator from New York will yield, I was talking about health. I think it is a rather insulting thing to infer in this second section that it is unhealthy for a white child to go with a black child or for a black child to go with a white child. In New York City the Fleischmann report called for an ethnic balance in the New York City schools.

Mr. JAVITS. The amendment infers no such thing about health. The Senator always uses his own words—strict ethnic balance.

Mr. HOLLINGS. It is what the report calls for.

Mr. JAVITS. No. I agree with the policies of the Commissioner of Education of the State of New York in respect to making those regulations, within the law of my State, which he believes will be most conducive to the best educational opportunity for its children. It is by no means the optimum. It is by no means the strict ethnic standard.

But there has been an effort, by mobilizing the kind of students in given schools, to try to improve the educational process over what it was.

Mr. HOLLINGS. The report said "ethnic balance."

In the report the New York schools would be 40 percent white and 60 percent black. We do not find any request for busing to get the children out of that 8 by 44 block area to those schools.

Be that as it may, one final question. I am not trying to belabor the Senator from New York; I am trying to get to the question. What is supposed to happen by June 30, 1973, other than the presidential election will have taken place?

Mr. JAVITS. I cannot tell the Senator why that date was fixed, because the date is not the product of my mind. The reason that I voted for it, the only thing that I can answer for, is because it was a part of the package of compromise, and this was distinctly a compromise, and one which does not leave me very happy, but which nonetheless I felt in conscience represented a possibility for compromise in the Senate, and it seemed to me, therefore, to be a way out of the ballpark, in view of the incidents in the Richmond case, to give the court an opportunity for limiting the maximum period within which that basic question as to transportation between the city and the suburbs—in other words, the issue of metropolitanization, so-called—should be decided. I did not want to put any restraints upon it, but if it was a part of a compromise, I felt in conscience I had to support it. I did not consider the problem, in the final analysis, in providing for more than a year, to be an unreasonable ceiling upon the decision of that question, notwithstanding the feeling that this is a new, very important question, and that the courts should be given a chance, at the highest level, to decide it. That was the only rationale that I can find.

Mr. HOLLINGS. Then the Senator from New York and the Senator from North Carolina can agree that we are both unhappy with section 1 and we are both unhappy with section 3, and as to section 2, we rather go along with the superintendent of schools in New York, than the Fleischmann report.

Mr. JAVITS. Well, the Senator from South Carolina and the Senator from New York do not agree at all, because they do not agree on the total, apparently. I hope one day we will be able to agree. The total, in my judgment, is that the complete amendment, the so-called Scott-Mansfield amendment, materially advances the educational opportunity for all children. That is my firm conclusion. If the Senator agrees with me in that, that is fine. I gather he does not. But I will not be led into some particularized statement about one phrase or one particular provision of the total amendment, when we particularly disagree about the total thrust of that amendment.

Mr. HOLLINGS. The Senator from New York knows as well as I do that this whole amendment is a cop-out. Where does the advancement come from?

Mr. JAVITS. The Senator from New York knows no such thing, and the Senator from South Carolina knew it when he said it. I say to the Senator most emphatically, I am a trial lawyer, too, and I do not happen to be your witness, so do not ask me leading questions. I still disagree.

It is no cop-out; yesterday was one of the most substantive, one of the most effective, and one of the finest hours the Senate ever had, and despite all the venting of emotion, including by some very worried people, millions of very worried people, the Senate was standing in judgment; and notwithstanding the fact that the amendment was split up in separate votes, and the fact that I might not have liked this period or that comma, I voted in conscience because I knew it was in the best interests of the country, whatever had been the advertising about how hot an issue this was. I thoroughly disagree with the idea that it is a cop-out or a pretense or any such thing.

It was decent human beings trying to come to an accommodation with other decent human beings and millions of Americans who were very worried. And I believe that the rank and file of Americans today feel better about the issue and better about the Senate than they did the day before yesterday. That is what the Senator from New York believes.

Mr. HOLLINGS. But, in the Senator's own words, he was unhappy with two-thirds of the Senate's finest hour.

Mr. JAVITS. Mr. President, I might be unhappy with the Saturn rocket, but very happy with that small tip of it that finally gets to the moon. That is the situation here. What difference does it make? I voted for it. I thought it the best for our Nation, and the best course that we could take.

Mr. HOLLINGS. I thank my colleague for yielding.

Mr. ERVIN. Mr. President, I yield the Senator from Michigan such time as he may require of the time that remains in favor of the proposal.

Mr. GRIFFIN. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 28 minutes remaining. The Senator from Rhode Island has 24 minutes.

Mr. GRIFFIN. I thank the Chair.

Mr. President, there are many, in and out of the Senate, who say they are against busing for the purpose of altering racial balance. Many of those people have registered their opinions in various polls and surveys that have been taken throughout the country. Almost every survey that I am aware of reveals that a majority of blacks as well as whites favor busing if the busing contributes to quality education. On the other hand, they are against busing purely for the purpose of achieving some artificial racial mix.

The Nation's attention has been focused upon whether or not a constitutional amendment should be adopted to do something about the Federal courts' abuse of the busing remedy. Many people say we should not adopt a constitutional amendment; that we should deal with the problem by statute.

Today, Mr. President, Members of the Senate are going to have an opportunity to decide, when my amendment comes up, whether or not they really want to do something by statute.

As I indicated yesterday, the amendment offered by the two leaders does absolutely nothing, except for subsection (c), which postpones the effective date of some court orders until all appeals have been exhausted. That is the only significant and substantial part of the Scott-Mansfield amendment. Otherwise, that amendment actually retreats from statutes already in effect. I refer to section 2000c–6 of the Civil Rights Act of 1964, where Congress provided:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

That language is already in the law, and I would say that as a statement of congressional intent, that language is stronger by far than the language the Senate adopted yesterday. But the courts have had no trouble interpreting this provision. They have held that it does not take any powers away from the courts. The question is, Can we really take any powers away from the courts by statute, or can this be done only by a constitutional amendment?

Mr. President, it seems that there is only one way we might be able to do this constitutionally by statute, and that approach is embodied in the amendment I have offered. It is a very carefully tailored amendment. It does not go beyond the remedy of busing, but it does seek to withdraw from Federal courts jurisdiction to impose busing as a tool in dealing with questions involving desegregation of public schools.

How is it that Congress could do this? Well, there was a time when Congress believed that the Federal courts were abusing the use of injunctions as a remedy in labor disputes. The result of this congressional dissatisfaction was enactment of the Norris-LaGuardia Act.

In passing the Norris-LaGuardia Act in 1932 Congress did not take away the authority or the jurisdiction of the Federal courts to decide cases involving labor disputes. It did not take away the power of the Federal courts to use or employ any other remedy. But it did say that the Federal courts did not have jurisdiction to issue injunctions in labor disputes. It took away from the Federal courts that one remedy because Congress believed that it was being abused by the Federal courts.

Now, in 1972, the people of this country—if not Congress—believe that the Federal courts are abusing the remedy of busing to deal with the situation of school desegregation; and Congress, if it wishes, can exercise the constitutional power it has under article III to withdraw the power of Federal courts to order busing. This action would leave to the Federal courts other ways—the limited redrawing of attendance zones, for example—to deal with the problem of segregation.

This action would indicate the conclusion of Congress—and it certainly is the conclusion of the junior Senator from Michigan—that busing is an unreasonable penalty to impose upon children and that it does not make sense to require children to be bused, unless the busing is productively related to the achievement of a quality education.

The news media has given the erroneous impression that under the Scott-Mansfield amendment, busing would only be involved if it was voluntarily requested by the local school district. This interpretation is ridiculous. This is not at all what the Scott-Mansfield amendment provides. The Scott-Mansfield amendment merely says that Federal funds cannot be used for busing except where expressly requested by local school officials.

But, of course, that is not the question. The question is whether or not busing has been or will be ordered by a court. If a court orders busing, why would not the local school district ask for and accept whatever funds are available, from any source, to meet the financial needs of that community?

That particular subsection of the Mansfield-Scott amendment provides further:

> No court or agency shall order a local district to request funds.

That language is an insult to anyone who reads that section. To say that a court shall not order a local district to request funds is the most meaningless statement of the entire amendment.

However, I point out one interesting thing. In that particular language of the Scott-Mansfield amendment, the proponents are utilizing the same approach that is embodied in the amendment of the junior Senator from Michigan. They are attempting, even in a very limited way that has no substantial meaning, to limit the jurisdiction of the Federal courts because that language actually seeks to deny a court the power to do something. So, in effect, it seems to me that the proponents are admitting that Congress can limit the courts' powers even though that particular limitation is very insubstantial.

Mr. President, this will be a very important and perhaps historic vote that will be taken today, and it will put many Senators on record as to whether or not they want to do something effective by statute to stop the abuse of busing. I think the vote will be close. I wonder whether the presidential candidates who are going around the country telling the people they are against busing—but that they do not favor a constitutional amendment—are going to be here today. I wonder whether they are going to take this opportunity to help pass an effective statute to stop forced busing.

Unless this amendment is adopted—if the only thing we do is to adopt the Mansfield-Scott "compromise"—then it seems to me that it can be said that Congress will be waffling on the issue of busing.

Someone in the cloakroom observed, with tongue in cheek, that a field of combat is sometimes referred to as a gridiron, but that as a result of the parliamentary maneuvering and acceptance of the Scott-Mansfield amendment yesterday the Senate floor has been turned into a waffle iron.

Mr. President, I think that the vote on the amendment which I have proposed will be the best opportunity the Senate will have to take a strong and meaningful stand on the busing problem.

I thank the Senator from North Carolina, and I yield the floor to him.

Mr. SPONG. Mr. President, will the Senator yield me 2 minutes?

Mr. ERVIN. I yield.

Mr. SPONG. I thank the Senator from North Carolina.

Mr. President, yesterday, in an exchange with the Senator from New York, I mentioned that I would insert in the RECORD during the course of this debate a listing of the segregation statutes and laws as they have applied State by State in the United States. I do this because there has been some mention here of past sins, and some of us believe that the emphasis is more on curing past sins than on providing equal educational opportunity now.

I believe the information in this listing is most pertinent to the current debate, for it indicates specifically the superficiality of the distinction between de facto and de jure segregation. It indicates that as few as 5 years prior to the decision in Brown I (1954), States such as Arizona and Indiana had discriminatory statutes; within 20 years of the decision, States such as New Mexico and New York maintained discriminatory laws. Yet, at the moment, the distinction between de facto and de jure segregation is often made on the basis of an arbitrary date, 1954. Those States which did not have statutes in effect requiring or permitting discrimination in 1954 generally are considered de facto and generally have not been required to bear burdens of finance and inconvenience imposed upon other States. The distinction between de facto and de jure segregation persists despite the fact that recent court decisions in Denver and in Detroit have found evidence of official action conducive to segregation by race. The distinction persists despite the fact that statistics tell us that there is currently more racial isolation in many cities of the North and West than in cities of the South. The distinction persists despite the fact that it is obviously inequitable to require citizens of the South—both black and white—to bear the financial and inconvenience burdens associated with racial balance and massive enforced busing of public school students, while other parts of the Nation, where there is greater racial isolation and where there are fewer efforts to overcome it do not have the same burdens.

I believe the Scott-Mansfield amendment, as well-intentioned as it may be, fails to deal with the distinction between de facto and de jure segregation, and in doing so merely becomes a holding play for some parts of the country.

Furthermore, I believe the Scott-Mansfield proposal fails to deal adequately with the confusion which continues to exist over precisely what is required in terms of school desegregation. Like the Swann decision, it fails to come

to grips with such questions as what constitutes a unitary school system and when precisely the health and safety of schoolchildren is threatened. Consequently, it continues to permit district court judges to act with a maximum of discretion and a minimum of guidance. The obvious result of this situation is that there are no uniform requirements and there is continuous confusion. If Congress and the courts allow this situation to persist, I believe we will have done a disservice to public education throughout our Nation.

Mr. President, I ask unanimous consent that Appendix C which Judge Walter E. Hoffman attached to his opinion in *Beckett* v. *School Board of City of Norfolk*, 308 Fed. Sup. 1274, be printed at this point in the RECORD. As Judge Hoffman noted:

The list is not intended to be inclusive: for example, where there was mandatory segregation in public schools, other segregation or discriminatory laws were not included. It does not refer to housing ordinances and deed restrictions legalized in many states. Furthermore, it is impossible. through research of the cases and statutes alone, to uncover all examples of discriminatory action by public officials regardless of what the state laws required.

I commend this appendix to my colleagues, for I believe it illustrates that school desegregation problems are national problems and that we are only deluding ourselves if we refuse to face that fact.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

JUDGE HOFFMAN'S APPENDIX

A list of states with discriminatory laws or judicial decisions, excluding Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, in which mandatory school segregation laws existed on May 17, 1954.

ALASKA

In *Davis* v. *Sitka School Board*, 3 Alas. 481 (1908), it was held that semi-civilized Indians did not have to be admitted to public schools. It went on to find that the stepchildren of "an industrious, law-abiding, intelligent native" Indian, who operated a store "according to civilized methods," and had adopted the white man's style of dress; spoke, read and wrote the English language; and was a member of the Presbyterian Church; were not civilized enough to attend white schools because they still lived with other members of their tribe.

Sing v. *Sitka* School Board, 7 Alas. 616 (1927), upheld separate but equal schools for Indians.

ARIZONA

Arizona Code Ann. (1939), section 54–416, provided for mandatory segregation in *elementary* schools. Under section 54–918, there was permissive segregation in *high* schools, where there were more than 25 blacks in the high school district and if approved by a majority vote of the electorate. By an amendment in 1951, section 54–416 was made permissive and section 54–918 was repealed.

ARKANSAS

Ark. Stat. Ann. (1947), section 80–509(c), required the establishment of separate schools for white and colored.

CALIFORNIA

While laws enacted in 1869–70 and 1880–81 provided (1) mandatory separate schools for Negro and Indian children, and (2) permissive separate schools for children of Mongolian or Chinese descent, a statute enacted in 1943 but repealed in 1947 reenacted the permissive separate school provision and provided that, if separate schools were established for Indian children or children of Chinese, Japanese or Mongolian parentage, they could not be admitted to any other school. *Cal. Educational Code*, section 8003 (Deering's 1944.) *See* also: *Cal. Laws* 1869–70, p. 838; *Cal. Political Code*, section 1662 (Deering's 1885.)

COLORADO

Miscegenation statute, *Col. Stats. Ann.* c. 107, sections 2, 3 (1935.) Jackson v. Denver, 109 Col. 196, 124 P. (2d) 240 (1909) holds that an otherwise valid common law marriage between a black and a white was declared to be "immoral" and justified a conviction under a vagrancy statute defining same to include leading an "immoral course of life."

CONNECTICUT

Conn. Const., Art. VI, section 2 (1818), limited the electorate to white male citizens owning property. In 1845 the property qualification was deleted. In 1876 the Constitution was amended by removing the requirement that electors be white.

DELAWARE

Del. Const., Art. X, section 2 (1915) provided for separate schools. By the Del. Rev. Code, Ch. 71, section 9 (1935), two kinds of separate schools were authorized; "those for white children and those for colored children."

DISTRICT OF COLUMBIA

D.C. Code, title 7, sections 349, 252 (1939 Supp.), authorizing separate schools for white and colored in the District.

IDAHO

Idaho Const., Art. 6, section 3 (1890), prohibits Chinese or Mongolians, not born in the United States, from voting, serving as jurors, or holding civil office.

Miscegenation statute: 1867, p. 71, section 3; R. S. section 2425, reenacted Rev. Code section 2616; amended 1921, Ch. 115, section 1, p. 291.

ILLINOIS

Ill. Const., Art. II, section 27 (1919), limited the electorate to white males.

Although no statute respecting school segregation has been located, history is replete with evidence of discriminatory practices in operating separate schools for many years. *See* Ming, *The Elimination of Segregation in the Public Schools of the North and West*, 21 J. Negro Ed. 265, 268 (1952); B. H. Vallen, *Racial Desegregation of the Public Schools in Southern Illinois*, 23 J. Negro Ed. 303 (1954); Shagoloff, *A Study of Community Acceptance of Desegregation in Two Selected Areas*, 23 J. Negro Ed. 330 (1954). *See* also: *United States v. School District 151 of Cook County, Ill.*, 301 F. Supp. 201, 217 (1969).

Thus, Illinois, without a specific statute, practiced segregation in public schools prior to 1954, almost as much as in the "Deep South."

INDIANA

Ind. Stat. Ann., section 28–5104 (Burns 1933), provided for the establishment of separate schools for Negroes if the school authorities believed it to be necessary or proper, but, if no separate schools were established, Negroes could attend white schools. In 1949, the separate school law was repealed, *Laws*, 1949, Ch. 186, section 11.

IOWA

Iowa Laws, Ch. 99, section 6 (1846), provided that schools were to be open to all white persons.

Iowa Laws, Ch. 52, section 30 (1858), called for the education of colored children in separate schools except where there was unanimous consent of all attending the school to allow Negroes to attend the white school. This act was declared unconstitutional in *District v. City of Dubuque*, 7 Iowa 262 (1858), on the ground that the Constitution gave the power to legislate with regard to education to the Board of Education and not to the General Assembly. Thereafter, the Board of Education provided education for all "youth" and in *Clark v. The Board of Directors*, 24 Iowa 266 (1868), this was construed as requiring admission of Negroes into white schools.

The *Iowa Const.*, Art. II, section 1 (1858), provided that only white males could be electors. Iowa Code, Ch. 130, section 2388 ff. (1859), stated that no colored person could be a witness.

KANSAS

Kan. Gen. Stat., Section 71–1724 (1949), gave authority to establish and maintain separate primary schools for whites and Negroes throughout the state, and separate high schools in Kansas City. See: *Brown v. Board of Education*, 347 U.S. 483 (1954).

KENTUCKY

Ky. Const., Section 187, *Ky. Rev. Stat.*, Section 158.020 (1946), required separate schools for white and colored children.

MARYLAND

Md. Code Ann., Art. 77, Sections 124, 207 (1951) required the county boards of education to establish one or more separate schools for Negroes, provided that the colored population of any such district warranted, in the board's judgment, an establishment of separate colored educational facilities.

MASSACHUSETTS

In *Roberts v. City of Boston*, 59 Mass. 198 (1849), the court stated that separate schools had been maintained for colored children "for half a century."

The court upheld the school committee in denying admission to a white school by a Negro child. However, six years later Massachusetts by statute abolished the practice of excluding on account of race, color or religion.

MICHIGAN

A dissenting opinion in *The People v. The Board of Education of Detroit*, 18 Mich. 400 (1889), states that in 1841 separate schools for colored were established in Detroit. The court was construing an amendment to the general school law which provided that all residents had an equal right to attend schools and the statute was held to apply to Detroit.

In *Day v. Owen*, 5 Mich. 520 (1856), the court upheld a regulation excluding a Negro from the cabin of a steamer solely for the reason of his race.

People v. Dean, 14 Mich. 406 (1866), held that only whites, or those at least three-fourths white, could vote.

Miscegenation statute, C. L. 1857, 3209, C. L. 1871, 4724, prohibited marriages between whites and Negroes until the statute was amended in 1883.

MINNESOTA

Minn. Rev. Stat., Ch. 5, section 1 (1851), and Minn. Const., Art. VII, section 1 (1858), excluded Negroes from voting until amendment of November 3, 1868.

MISSOURI

Mo. Const., Art. XI, sections 1, 3 (1875), and *Mo. Rev. Stat.*, section 163.130 (1949), required separate schools and "it shall be unlawful for any colored child to attend any white school or for any white child to attend a colored school." These provisions were repealed in 1957, three years *after Brown I*.

MONTANA

Mont. Ter. Laws, 1872, p. 627, provided for separate schools of children of African descent when requested by at least ten such children. This statute was repealed in 1895.

Miscegenation statute, *Mont. Rev. Code*, section 5700, (1935).

NEBRASKA

Neb. Rev. Stat., Ch. 48, section 8 (1866), imposed upon the local school directors the duty of taking an annual census of unmarried *white* youth between the ages of five and twenty-one for the purpose of school assignments. *Neb. Rev. Stat.*, Ch. 48, section (1886), establishing the school system states that it is "for the purpose of affording the advantage of a free education to all *white* youth of this territory," and further provides that all colored persons shall be "exempted from taxation for school purposes." These laws were repealed in 1869.

Miscegenation statute. *Neb. Rev. Stat.*, section 42–103 (1943).

NEW JERSEY

N.J. Com. Stat., pp. 4791–92, Schools sections 201–204, pp. 4814–16, Schools sections 262–267 (1911), established an industrial school for blacks.

In M. T. Wright, *Racial Integration in the Public Schools in New Jersey*, 23 J. Negro Ed. 282 (1954), there is reference to an 1850 statute permitting a township in Morris County to establish separate schools for colored children.

In Williams and Ryan, *Schools in Transition*, p. 122 (1954), it is said: "A survey of 62 school districts, initiated in the spring of 1948, revealed that two-thirds had segregated schools sanctioned by local custom and practice."

N.J. Const., Art. II, section 1 (1844), limited suffrage to white males.

NEW MEXICO

N.M., Stat., section 55–1201 (1941 Annot.) allowed school boards to place children of African descent in separate schools if the facilities were equal.

NEW YORK

N.Y. Consol, Laws, c. 15, section 921 (Cahill 1930), provided that trustees of any union school district organized under a special act "may establish separate schools for colored children provided that the facilities are equal." On March 25, 1938, this law was repealed.

NORTH DAKOTA

Miscegenation states, N.D. Rev. Code, section 14–0304 (1943).

OHIO

Under *Ohio Stat.*, Ch. 101, section 31 (1854), separate schools for colored children were authorized and required when there were more than thirty school-aged colored children in a township. This statute was repealed in 1887. It was held in *Garnes* v. *McCann*, 21 Ohio St. Rep. 198 (1871) that the existing statute deprived the Negroes of the right to admission at white schools.

Separation of races on an educational level under the separate but equal theory was upheld in *State ex rel. Weaver* v. *Trustees*, 126 Ohio St. Rep. 290 (1933).

OKLAHOMA

Mandatory separate but equal schools required for black and white children. *Okla. Const.*, Art. I, section 5, Art. XIII, section 3; *Okla. Stat.*, Title 70, Section 5–1 (1949 Supp.).

OREGON

Miscegenation statute. *Ore. Comp. Laws Ann.*, section 63–102 (1940). Statute repealed 1951.

PENNSYLVANIA

In *Hobbs* v. *Fogg*, 6 Watts 553 (Pa. 1837), the Court held that a free male Negro was not a freeman entitled to vote under the Pennsylvania Constitution providing that all freemen could vote. In 1838, the *Pennsylvania Constitution*, Art. I, restricted voters to white freemen. In 1874 this restriction was removed.

While unable to locate the statute, H. M. Bond, *The Education of the Negro in the American Social Order*, p. 378 (1934), states that in 1854 Pennsylvania enacted an optional separate school law where there were more than twenty Negroes in a district. This law was reportedly repealed in 1881.

RHODE ISLAND

Ammons v. *Charlestown School District* 7 R.I. 596 (1964), held that Indian tribes were not entitled to send their children to local public schools since the state had provided schools for Indians through a special state appropriation.

SOUTH DAKOTA

Indians were required to attend federal schools established for them whenever such schools were available. S.D. Laws Ch. 138, sections 290–293 (1931): S.D. Code, Section 15.3501 (1939).

TENNESSEE

Mandatory separate schools for colored children. *Tenn. Const.*, Art XI. Section 12; *Tenn. Code*. Section 2377, 2393–9 (1932).

TEXAS

Mandatory separate schools for colored children. *Tex. Const.*, Art VII, section 7; *Tex. Ann. Rev. Civ. Stat.*, Articles 2719, 2900 (1925).

UTAH

Utah Laws and Ordinances, 1851, An Ordinance to Incorporate Great Salt Lake City, section 6, provided "all free white male inhabitants are entitled to vote . . ."

Miscegenation statute. *Utah Code Ann.*, Section 40–1–2 (1934).

WEST VIRGINIA

Mandatory separate schools for colored children. *W.Va. Code*, ch. 18, Art. 5, Section 14 (1931).

WISCONSIN

Indians required to attend separate schools where such schools were available. *Wisc. Stat.*, section 40. 71, (1949). Repealed in 1951.

Under *Wisc. State.*, section 75. 14(4), restrictions surviving the issuance of tax deeds (after tax sales) which were valid and enforceable included those regarding the "character, race, and nationality of the owners." Statute repealed in 1951.

WYOMING

Wyo. Comp. Stat. Ann., section 67–624 (1945, but originally enacted in 1876), provided that the school boards could establish separate but equal schools for Negroes.

SUMMARY

Only as to the states of Maine, New Hampshire, Vermont, Washington, Nevada, and Hawaii does it appear from this nonexhaustive research that no discriminatory laws appeared on the books at one time or another. No consideration has been given to Puerto Rico, Virgin Islands, Canal Zone or Guam.

Mr. SPONG. Mr. President, the position of the Senator from Virginia is that any legislation passed by this Congress, by this Senate, should be national in application. There was nothing in the amendment adopted yesterday that, in my judgment, would provide any better educational opportunity for many disadvantaged children outside the South.

The Senator from Virginia has pointed out that where there have been specific cases in the North and West, and courts have gone into this, they have found that there was discrimination. This has been true in Michigan, in California, and just a day or two ago, in Nevada. So I think any policy has to be national in application.

In my opinion, the amendment that was adopted yesterday fosters a policy of distinction between de jure and de facto segregation that in turn fosters a policy of hypocrisy that I do not believe the people of Virginia and other parts of the United States will sustain for very long.

Mr. TALMADGE. Mr. President, will the Senator from Virginia yield at that point?

Mr. SPONG. I am pleased to yield to the Senator from Georgia.

Mr. TALMADGE. Is it not a fact that at one time every State in the Union had segregated schools?

Mr. SPONG. The Senator from Virginia is now placing in the record a State-by-State survey of segregation statutes. I do not know that I am prepared to say all did, but most had laws that separated the races.

Mr. TALMADGE. Is it not also true that there has been no such thing as de jure segregation in America since 1954?

Mr. SPONG. In my judgment; that is true.

Mr. TALMADGE. So, the myth of de jure and de facto segregation is totally invalid at the present time; is it not?

Mr. SPONG. In my judgment; yes.

Mr. TALMADGE. If we want to consider it valid for Virginia because they were segregated in 1954, would we not also have to hold it valid for Massachusetts because they, too, at one time also had de jure segregation?

Mr. SPONG. I think we would. The point the Senator from Virginia is trying to make, which somehow escapes some of my colleagues, is that the burden of proof in this matter is different where Virginia is concerned and where Massachusetts is concerned, because until we have a law that is nationally applicable there is a presumption that something has gone wrong in any locality in Virginia, but there is not the same presumption in Massachusetts and certain other States.

Mr. ERVIN. If I may interject there, did not the Swann case say, in respect to a State which had legal segregation at the time of the Brown case, that if we could identify a school as being a black school or a white school, that was prima facie evidence of discrimination, so that if we take that to New York, we could find a prima facie evidence of discrimination in scores and scores and scores of instances there; is that not correct?

Mr. SPONG. There are colleagues here who have cited statistics on desegregation in various parts of the Nation as being red herrings. They are not red herrings, they are facts. The cities of Richmond and Norfolk today have more desegregation and are providing better educational opportunities for the disadvantaged than dozens of other major cities throughout the United States.

The Senator from Connecticut (Mr. RIBICOFF) put his finger on the problem when this debate began, although I do not know that I share completely his views as to the methods to be used to rectify the situation. I do, however, think we are deluding ourselves today if we think that what we did yesterday is anything but waffling on this issue.

Mr. HOLLINGS. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. I had promised to yield the remainder of my time to the distinguished Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I will be glad to yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator very much.

Mr. President, I only wish to state, in voting on the Mondale amendment, that I do so because of the original language:

All requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure throughout the Nation.

The Senator from Connecticut (Mr. RIBICOFF) had put his finger on it, that this was the issue. As for the Stennis-Russell-Hollings amendment, whenever we get a chance to vote for it, I will vote for it. I still do not accede to the provisions of the Scott-Mansfield amendment as any kind of finest hour, or compromise solution, or step in the direction of quality education. But I would vote for the Stennis amendment or for the original Mondale amendment while resisting the rest, knowing at that time that resistance has been overcome and that the Senate already acted favorably on the remainder of the amendment.

I thank my distinguished colleague from Tennessee for yielding me this time.

Mr. BAKER. Mr. President, I think that today it is not inappropriate to repeat some of what I tried to say yesterday, and on more than one occasion, to try to put this issue in perspective.

We are now approaching a significant vote on an important amendment of the junior Senator from Michigan (Mr. GRIFFIN), and I think it bears directly on the possible consideration of that amendment. What I said yesterday and repeat today is that I believe busing as ordered by the Federal judiciary is inappropriate and counterproductive in our further efforts to eliminate institutional segregation from the landscape of the United States and to create an opportunity for all of our citizens.

I do not believe that busing was eliminated as such a tool in the amendment adopted yesterday. I do believe that the amendment to be offered by the junior Senator from Michigan (Mr. GRIFFIN) will accomplish that purpose.

I believe that there has been a concerted effort by many in this Chamber to equate opposition to busing as an appropriate effort in opposition to civil rights, to equate antibusing with antiblack, to say that no busing will move us backwards toward repeal of the Brown decision, and any other number of such possibilities and allegations.

My reply is, that that is untrue so far as the senior Senator from Tennessee is concerned at least and, it does not face squarely the issue before the country; namely, the issue of busing.

Mr. President, I have some firsthand knowledge of the busing situation as the courts have decreed it, because in Tennessee, in Nashville, there is judicially ordered busing. The U.S. district judge there has required the busing of students throughout the metro-Davidson County, which is a consolidated city-county system representing Davidson County and the city of Nashville. It might be of interest to my colleagues to know that 49,000 students are now being bused in Nashville—49,000 students out of 88,000 who are being bused as a result of that court order.

I think it might also be interesting to note that as a result of that court order, the Davidson County metro school system is now operating on a double shift basis because it was impossible for them to comply with the orders of the court to procure enough buses in order to bus all the students because of the great distances required in that judicial determination and have a conventional school system.

As a result, we have two school systems. One starts at 7 o'clock in the morning and ends at 1 o'clock. The other starts at 10 o'clock in the morning and ends at 4:30.

That means that those children who start their day at 7 o'clock are clearly on the streets, waiting for buses, long before daylight.

It may seem to be an inconsequential matter, but they are also released earlier from school than is normal. This means that many mothers, or families where both the father and the mother are working, are ill equipped to receive their children at home from school at 1 o'clock or 2 o'clock, or even 2:30, as they do now in Nashville as a result of the necessity for staggered or tiered terms in the school system.

Some of these children are bused as much as 1 hour each way each day, a total of 2 hours in the course of the day.

I do not cite these statistics and these observations from our experience in Nashville, of something now of just less than a full school year, in order to try to roll back the clock to a time prior to the Brown decision. I do not say this to be antiblack. I do not mean to say that all of the Swann decision is bad. I rather say it, hopefully, with exactitude; namely, that I believe busing has been demonstrated to be unworkable and to be inimical to the best interests of the educational opportunities of schoolchildren in the United States as we have seen it in Nashville, Tenn., and as it is being seen in other parts of the country.

I would hope that we would face up to the issue before us because my colleagues are certainly aware that if we do not face the issue, the people will certainly see that we do, in due course. The people, I am convinced, feel very strongly on this issue. I think they are right.

It was once said about our form of government that the people are sovereign and we can doubt the sovereign's judgment but we cannot doubt his authority.

Mr. President, in this case the street people are speaking on the issue of busing. However, I think it is important that we not misunderstand what they are saying. They are not saying that we have turned into a pack of reactionaries on civil rights. They are not saying that we want to undo all the progress that has been accomplished throughout the country with regard to the integration of our school systems.

They are saying what the courts in the Swann case finally said, after repudiating a number of decisions. The Supreme Court of the United States, having specifically refused to accept busing as a means of accomplishing desegregation, in the Swann case said they can use busing in certain limited circumstances.

They are not saying that even the decision in the Swann case was wrong, except in that particular and that respect.

I think the people are saying that busing is not a necessary requirement for civil rights and a requirement for our country.

It was pointed out once by the Supreme Court that separate schools are not equal, but are inherently unequal and that the separation of the races created inherently unequal situations. I think that is true. Some whites and some blacks do not think it is true. However, I do.

I believe not only in a desegregation of our systems but also in an integration of the educational system in the United States. However, that does not have a thing to do with the point of whether busing is or is not in furtherance of a solution of the problem.

I believe it is not. However, just as it is said that separate schools are not equal, but are inherently unequal and that, therefore, something must be done under the Constitution to create equality of educational opportunities, I suggest now that busing for an hour each day, leaving to go to school at 7 in the morning and getting home at 1 in the afternoon, results in many instances in neither the father nor the mother being home to look after those schoolchildren.

I suggest that busing visited upon a number of children to satisfy some numerical equality and satisfy some judicially decreed proportion of so many whites and so many blacks is also inherently unequal and that busing under these circumstances creates the same lack of opportunity cited in the court decision rendered in the Brown case of 1954.

Someone pointed out in the debate yesterday that busing was used in times past to perpetuate the segregation of black children by busing them to all black schools. Is it not strange that blacks and whites are being bused again, not for the sake of rendering equality in education, but for the sake of establishing what the court conceives to be a judicial determination of a mathematical ratio?

Some have said that is not so, that the Supreme Court specifically disavows any mathematical kind of ratio. And that is true. The Supreme Court does disavow any kind of mathematical ratio. But that is not what the district courts do. The district courts, by clearly expressed determination in their decrees, require, as they put it, a beginning ratio. I think that is wrong.

The issue is narrowly defined. It has nothing to do with progress in civil rights. It has to do, rather, with declaring that busing is an appropriate tool. I suggest that it is not.

I will support the amendment of the junior Senator from Michigan.

Mr. ERVIN. Mr. President, I withdraw my amendment.

Mr. GRIFFIN. Mr. President, will the Senator withhold that request?

Mr. ERVIN. Mr. President, I withhold my request.

Mr. GRIFFIN. The Senator from Colorado would like to have a few moments. However, he has left the floor momentarily and he will be back shortly.

Mr. ERVIN. Mr. President, my time is exhausted, all of it.

Mr. PELL. Mr. President, I yield 5 minutes or as much time as he requires to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, I think that the remarks by the Senator from Tennessee help to underscore the importance of what we are speaking about. The Select Committee on Equal Educational Opportunity heard from the superintendent of the Nashville school system, and it is indeed true that the present situation in Nashville is intolerable. However, the reason it is intolerable is that the Federal Government is not providing any help for the tremendous expenses involved in busing. If it did, the school system could afford enough buses to run the schools on a regular basis and do away with the double session school system.

As the Nashville superintendent of schools said, the parents, neither those who support integration nor those who tolerate integration, will permit their children to endure the hardship brought about by inadequate transportation services.

The committee amendment, which the Scott-Mansfield amendment attempts to preserve would bring totally justified, and long overdue financial relief to school districts, 1,500 of which are caught completely in the middle while the politicians wrangle and while the courts rule. No matter what we do today, those districts must eliminate discriminatory segregation.

The question is whether we will continue to posture or whether we will bring help to the school districts who are under court order and who have no choice, school districts in which 11 million schoolchildren go to school.

There is much discrimination remaining in school districts today throughout the country, North and South. It is not a rare phenomenon. This is part of American school life, regrettably. I have talked before and I will talk again about recent cases, recent court cases in California, in Illinois, and elsewhere showing that there is an outrageous, deliberate policy of separating children on the basis of race and that busing is used as a tool to separate the children.

What is the court to do when faced with that kind of a situation? We have been led to believe in the debate that U.S. Supreme Court Justices are seized with some kind of insanity, some kind of total escape from reality, that they have become fixated on a national course of homogenization of the American schoolchildren.

We are led to believe that Chief Justice Burger and the other Justices have lost their senses, that most district court judges are irrational, and that we must somehow restrain them from visiting bizarre apparitions upon the schoolchildren of America.

We are dealing today with the same problem that we have dealt with for 20 years. The issue is discrimination, the policy of separating children on the basis of race.

The Senator from Michigan has offered an amendment which, if it is effective—but it will not be because it seeks to amend the Constitution—would prevent the court from trying to eliminate discrimination even when a clear case of discrimination has been proved.

In my opinion, we cannot amend the Constitution by statute. In my opinion it is wrong to even attempt to do so. The courts have the right and the responsibility of hearing cases which reach these constitutional issues. To attempt to deny them the right to exercise constitutional judicial duties is very futile, and a very unwise public policy.

In my opinion, if the Griffin amendment were effective—and I do not see how it could possibly be—it would be the most racially regressive measure adopted by Congress since adoption of the 14th amendment. It would roll back 18 years of Supreme Court decisions seeking to eliminate discriminatory school systems in this country. It would deny the Justice Department or the Department of Health, Education, and Welfare tools essential to the elimination of discrimination.

This amendment can only be called an attempt, however futile an attempt, to endorse discriminatory segregated school systems throughout our country.

This morning we read in the New York Times a remarkable statement by the speaker of the House in the State of Florida, Richard A. Pettigrew, in which he points out it would be wrong educationally and wrong legally to try to roll back the effort to bring about school systems which do not discriminate. This remarkable and courageous statement by the speaker of the House of Representatives in Florida is parallel to the leadership of the Governor of that State. It is quite clear that they, in their experience, do not feel we should proceed with the kind of measure represented by the Griffin amendment.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. RIBICOFF. I oppose the Griffin amendment, but I sat here with a sense of irony as I listened to the Senator from Minnesota.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. RIBICOFF. Will the Senator from Rhode Island yield to me?

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. The distinguished Senator praises the Speaker of the House and the Governor of the State of Florida. These two men belong to a very small band that have the courage of their convictions. Such courage has not always been found on the floor of this body.

As I stated yesterday, I think the Scott-Mansfield proposal bids a fond farewell to desegregation in education. We have begun a long road back to where we were before 1954. History will prove that the vote yesterday is a step toward repudiating 18 years of work. The Senate has failed to show the courage that has been shown by the Supreme Court and judges across this land.

Governor Askew and Speaker Pettigrew stood up in Florida where the issue is hot and explosive, in support of racial equality. That took courage. A similar show of concern would have rejected the Scott-Mansfield amendment yesterday. The distinguished Senator from Minnesota, for whom I have the greatest respect, himself made a great speech a week ago and pointed out the weaknesses of the proposals that were subsequently adopted in the Scott-Mansfield measure.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. May I have 2 or 3 additional minutes?

Mr. MONDALE. I yielded for a question and not for what seems to be a speech.

Mr. RIBICOFF. I have the greatest respect for the Senator from Minnesota.

Mr. PELL. I believe I control time.

The PRESIDING OFFICER. I have only 14 minutes remaining. I yield first to the Senator from Minnesota. How much time?

Mr. MONDALE. Four minutes.

Mr. PELL. I yield to the Senator from Minnesota for 4 minutes and I shall reserve the remainder of my time for the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, I have great respect for the Senator from Connecticut. I support his amendment, which I think he will be offering again, which seeks to try to reach a national policy bringing about quality integrated neighborhoods. I think that objective is exceedingly important to the health of this country. But I think the central dispute that is involved in this debate is whether the country is going to abandon its fight against discrimination found in the school systems of this country.

In this bill we come out for a system of quality integrated education for the first time in the history of Congress, and we try to provide funds to assist school districts to establish such school system and try to encourage multidistrict cooperation.

If we can maintain unsullied the fight against discrimination wherever it may exist, in the North as well as in the South, and I think we have done that completely and without any doubt today, and if we can do it completely and without any doubt tomorrow, and if we can adopt the measures which bring about quality integration and adopt the amendment which I believe the Senator from Connecticut will offer, and which I intend to support, I think it could be one of the greatest days in the history of the Senate.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. PELL. As I previously indicated, I have committed the remainder of my time to the Senator from Colorado.

Mr. ALLEN. Mr. President, is there any additional time remaining?

The PRESIDING OFFICER. There is no additional time.

The Senator from Colorado is recognized for 10 minutes.

Mr. ALLOTT. Mr. President, would it be in order if the Senator from Rhode Island feels he is bound, that we ask for an additional 5 minutes on this matter?

Mr. PELL. As far as I am concerned it would be in order.

The PRESIDING OFFICER. It would require unanimous consent.

Mr. ALLOTT. I do ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The request is that the time be extended for 5 additional minutes.

Mr. PASTORE. Mr. President, reserving the right to object, and I do not object, but the leadership is not on the floor. I hope this will not be considered as a precedent.

Mr. PELL. The Senator makes a very good point.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

Mr. PELL. In that case I have 15 minutes remaining, and I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I would like to ask the distinguished Senator from Minnesota a few questions that I tried to address to the majority leader yesterday when time ran out.

The Scott-Mansfield amendment talks about not requiring a child to go to a school "substantially inferior" to the one he would have attended under a nondiscriminatory system of school assignments based on geographic zones established without discrimination.

Who is to say what is an inferior school?

Mr. MONDALE. Let me say to the Senator: The full amendment provides—I do not have it here—that that situation obtains only where a school district is not discriminating. In other words, wherever it is found that a school district is separating children on the basis of race, the normal remedies, judicial, and administrative remedies, apply. A careful reading of that amendment leaves us in exactly the same position we are in today.

I would not have used that language myself. It was not my amendment. But the operative legal fact is to leave the law as it is today.

Mr. RIBICOFF. Is it not true that the amendment the Senator supports puts the burden of resolving the problem of racial isolation on the courts and encourages continuous appeals? Does not the Scott-Mansfield amendment require every community across this land, North and South, to take appeals to the Supreme Court on questions of desegregation, with automatic stays? Would not we still have complete confusion and really torpedo any possibility of desegregating schools, certainly until July 1, 1973? Is that not true?

Mr. MONDALE. That particular provision applies only in one limited class of cases; namely, cases which are multidistrict in impact. As far as I know, there is only one case in which such an appeal is involved in the country, and possibly there will be a second case in Detroit.

The reasoning, as I understand it, of the Scott-Mansfield sponsors was the revolutionary nature of the change in school district organization which is involved, in these multidistrict cases—and they would allow the Supreme Court to rule on the question before the court orders are put into effect. That is the one place in the amendment where it can be said that there has been some restriction on court jurisdiction. I have some question about whether even that is valid, but that is the only example.

But the total bill—returning to that point—if the Senator reads it, is an affirmation of the U.S. policy of eliminating discrimination in this country.

Mr. RIBICOFF. Who is to be the authority on what is a nondiscriminatory system of school assignment? I am at a loss to understand from the phrases in the amendment, who is going to set the standards, and who is going to determine what an inferior school is.

Talk about the litigation that followed the Brown against Board of Education decision in 1954. As a result of what we have done in the Senate, litigation across the country will start all over again after 18 years. After 1972 we will be back to where we were in 1954. That is what has happened as a result of the Scott-Mansfield proposal.

Mr. MONDALE. The amendment says where discrimination is found—which is the only jurisdiction the court has, which is the only jurisdiction under title VI—there is no change in the law. There is not a single change found in the amendment that affects the present law against discrimination in one iota. Therefore, one can be totally and enthusiastically against discrimination, as I am, and be in favor of that amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. Do I have 10 minutes?

The PRESIDING OFFICER. It is the understanding of the Chair that that time was to be given to the Senator from Colorado.

Mr. PELL. Mr. President, in accordance with the previous understanding, I have allotted the time requested to the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, yesterday I voted for the Scott-Mansfield amendment. I did so for two reasons.

First, although the amendment is inadequate as an answer to the busing problem, it is better than nothing. Since it was the first vote on this issue, it was a useful occasion for signaling my determination to find effective legislative means of expressing opposition to massive busing used solely to achieve racial balance.

Second, this amendment, although only a small step toward a solution to the busing problem, is a step in the right direction. It puts us on the path toward a more full and adequate solution.

Mr. President, the proper next step down that path, a giant step that may provide the solution that the vast majority of Americans, both white and black, desire, is before us now. It is the amendment proposed by the distinguished junior Senator from Michigan (Mr. GRIFFIN).

I intend to vote for this amendment. If the Griffin amendment passes, the parliamentary situation will be such that we will be called upon to vote again on the Scott-Mansfield amendment. That vote will be by way of a choice between the Griffin amendment and the Scott-Mansfield amendment. Given that choice, I shall vote against the Scott-Mansfield amendment and for the Griffin amendment.

Mr. President, I have given two reasons why I voted for the Scott-Mansfield amendment. At this point I want to explain why I think that amendment is inadequate.

The Scott-Mansfield amendment has three sections. Each is flawed; but each is a small first step in the right direction.

Section (a) forbids the spending of money for busing that risks the health or impinges on the educational opportunities of the children. This is a fine sentiment but it leaves crucial judgments in the hands of persons and agencies which, in the past, have rendered judgments that seem to me highly unsatisfactory. Clearly we cannot rest here.

Section (b) forbids any agency of the Federal overnment to order busing "unless constitutionally required." It is not clear what this proscription will achieve. Section (b) also forbids the Federal Government to order the transfer of a child from one school to another that is "substantially" inferior. This is another hazy judgment which we are entrusting to agencies whose previous judgments have put the Nation into a divisive quandry.

Section (c) is especially disappointing to me because it does not offer any relief to Denver. This section delays until all appeals have been exhausted the implementation of all busing orders involving the consolidation of school districts or the shuffling of children between the jurisdictions of various school boards.

That is the significance of the phrase "local educational agency" in the sentence which begins this way:

> Notwithstanding any other law or provision of law, in the case of an order to the part of any United States District Court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religious or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted. . .

This brings me to the first and most immediate reason for supporting the Griffin amendment. This amendment—specifically, section 903—grants a delay which would ease the costly and divisive burden on Denver pending completion of appeals relating to busing.

Beyond this, the Griffin amendment has much to recommend it.

First, the Griffin amendment continues the tradition of the great landmark deci-

sion in the Brown case 18 years ago. The Griffin amendment, like the Brown case, insists that the law be colorblind. It took us far too long as a people to face up to the inequities inherent in laws which take note of the color of a citizen's skin. We should not allow any agency of the Government, however humanely motivated, to pull us back into the bramblebush of discrimination—even if it is "reverse discrimination"—and "quotas"—even if they are benevolently intended.

Second, Mr. President, the Griffin amendment, and opposition to massive busing in general, is consistent with the Brown decision in another way.

The Brown decision struck down the dual school systems whereby the races were kept separate in the assignment of children to public schools. This great decision ended the policy of forced busing to keep the races in a particular relationship. I was, in 1954, and today I remain opposed to forced busing to achieve a particular racial composition of a public institution.

Perhaps I am old fashioned in believing that the great civil rights fights of recent years were correctly focused on the noble project of ending all practices whereby the law takes cognizance of the race of the citizen. I participated in every one of those fights for civil rights, and I am proud of my participation. I have no intention today of reversing my position to accord with whatever passing sociological fad is supposed to mandate this or that kind of racial balancing.

This is why, Mr. President, two years ago I opposed the so-called Philadelphia plan which called upon the Federal Government to impose racial "quotas" in certain hiring practices. To paraphrase the poet, a quota is a quota is a quota. It is a form of discrimination. And discrimination is discrimination is discrimination. I oppose discrimination period. I do not oppose discrimination with any ifs, ands, or buts. I do not want the Government of the United States involved in policies which make use of racial categories.

If my views are old fashioned, so be it. The law should be colorblind. Racial or other ethnic or religious quotas are wrong. And the senior Senator from Colorado will not change his views on that subject, even if some Federal judges become convinced to the contrary. That is another reason why I support the Griffin amendment's prohibition against courts requiring "that pupils be transported to or from school on the basis of their race, color, religion, or national origin."

Mr. President, a third reason for supporting the Griffin amendment is my growing conviction that the distinction between de jure and de facto segregation is crumbling. Or, to be more exact, this distinction, in the hands of certain members of the judiciary, is unworkable, and is giving these members of the judiciary excessive latitude to legislate their preferred social arrangements.

Not very long ago the distinction between de jure and de facto segregation was the distinction between racial isolation intentionally imposed directly upon schoolchildren by the laws of the State.

Recently, however, some persons have attempted to identify de jure segregation in every instance of racial imbalance. There seems to be at work a presumption of State guilt wherever the racial composition of a school is imbalanced. There seems to be the presumption that the law has connived at separating the races if it has not positively worked to integrate them.

In short, there seems to be a willingness to infer de jure segregation wherever there is evidence of racial composition that is, by some uncertain measure, "out of balance." The socioeconomic factors that result in housing patterns which give rise to local schools which reflect neighborhood composition—these factors are ignored or, more confusingly still, they get subsumed under the category of de jure segregation. When this happens, the distinction between de jure and de facto segregation becomes a distinction without a difference. These two classifications become classifications that do not classify. Everything can be attributable to some action—or, more often, some inaction by the State. Thus everything becomes de jure and nothing becomes de facto.

When this happens, the Government gets caught in an inexorable undertow, drawing it deeper and deeper into the dangerous business of sorting out the races. The end result is that the law is no longer colorblind. The blindfolded statue of justice removes her blindfold in order to notice the color of the citizen's skin. This is not tolerable.

I suspect that this distinction between de jure and de facto segregation might have been rendered unnecessary, and much confusion and waste might have been avoided, had the Brown decision been cast in another way. It would have been better had the Court not relied on sociological data about the effect of segregation on the quality of education, and instead asserted the plain—and obvious—point that laws which are not colorblind are unconstitutional.

That is the spirit of the Brown decision. The Griffin amendment asserts that spirit.

Mr. President, I support the Griffin amendment as a sensible, reasonable, prudent attempt to prohibit busing solely to achieve racial balance. I firmly believe that the purpose of this amendment enjoys the support of the majority of all Americans. After all, all Americans, regardless of race, have a stake in the neighborhood schools. And all Americans, regardless of race, are sensitive to, and embarrassed by, the pernicious and essentially racist doctrine that a black child can only enjoy proper educational advantages if he or she is sitting next to white children.

But, Mr. President, a prohibition of busing is just that, and nothing more. Just as busing is not education, so, too, a prohibition is not a policy.

We still need an educational policy responsive to the clear and present danger posed by the gross inadequacies of education in poverty areas.

The one good thing that has come from the misguided policy of busing to achieve racial balance is that it has called the Nation's attention to a clear injustice.

It is clear that there are in America intolerable inequalities in educational opportunity. I do not think it would be prudent or just to insist that education everywhere must be "equal" in all respects. Indeed, it is hard to know what that means.

But while we do not want to mandate a stultifying equality, we do want to eliminate gross inequalities. We need a policy to cope with the schools which poor Americans attend. What we face is not a question of race, but a question of poverty. It is well to remember that most of the poor people in America are white. And it is imperative that we remember that the effects of poverty know no color line.

Mr. President, busing will not eliminate the horrible deprivations and handicaps of poverty. Indeed, education itself probably cannot do this. But opposition to busing does not solve the problem which busing attempts—misguidedly, divisively and futilely—to solve.

Mr. President, those of us—and we are the overwhelming majority of Americans—who favor the neighborhood schools should get to work. We should attempt to devise a program whereby the neighborhood school in the poor neighborhood is better than the neighborhood.

Instead of establishing "quotas" of racial blocs to be shuffled around our communities, we should ignore race and concentrate on poverty.

Poverty is colorblind in this country. The law should be colorblind—and a determined enemy of poverty-stricken education of the sort that typifies too many of our schools in poor neighborhoods.

Mr. President, it is clear that various forces are converging on this issue. The recent court decisions—in California and Texas concerning reliance on the property tax for support of local education highlight the problem. I do not want to address myself to the merits of these decisions in any way. But I do want to emphasize the obvious commonsense point that if property values are low, this will have consequences on schools financed by local property taxes.

Whether the effect is sometimes intolerably deleterious is an empirical question, and I am not speaking to it. Whether the effect is constitutionally impermissible is a theoretical question, and I am not speaking to it either.

I only touch upon this matter because I know that the whole question of property taxes—their intolerable rise, and their possible inefficiency in meeting educational needs—is a problem uppermost in the minds of those at the very highest levels of the Nixon administration.

I think we are on the verge of a fresh new look at how we treat the Nation's children—and how we burden those, the taxpayers, who are, in the final analysis, the real support for the rising generations of Americans. I welcome this fresh reappraisal. But before we can get started on this, we must clear our heads and the agenda. And we must back out of the deadend street represented by busing. We must end this practice which is inefficient and divisive, and which is souring the public spirit of America.

I believe—and I know there is a lot of

encouraging evidence to support this—that racial views are moderating in America. There are enormous reserves of goodwill ready to be tapped. And there is a strong tradition of great support for public education at all levels. But busing is poisoning the wellsprings of American thinking.

Americans are now alert to the problems of insupportable inequalities in educational opportunities. To repeat, busing—its futility, its hardships, its capriciousness—gets part of the credit for focusing public attention on this problem. Now let us move ahead constructively.

Let us support the Griffin amendment, thereby laying to rest the justifiable feeling that Americans are losing their control over—and their stake in—their schools.

Let us get Americans out from under the gun; let us get them out from under the cloud of recrimination and bitterness that stems from justifiable resentment of busing programs which waste time and money, and even waste our most precious resource—the educational opportunities of the rising generation.

Mr. President, let us resoundingly support the Griffin amendment, thereby asserting the intention of Congress to cooperate with local authorities in making neighborhood schools a vibrant source of pride, and an efficient instrument for ameliorating our most enduring and pernicious inequalities.

It seems especially appropriate today to recall the old Chinese proverb that says a journey of 10,000 miles begins with a single step. The Griffin amendment is a big first step, and the right first step on our journey to more efficient and equitable education for all Americans. I urge all Senators to support the Griffin amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. Mr. President, after consulting with the Senator from Alabama (Mr. ALLEN), we have agreed that at the present time, we will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Now that the amendment of the Senator from North Carolina is withdrawn, is a further perfecting amendment to the Mondale amendment in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. This is the same amendment which was offered earlier in a different form as an amendment to the Allen amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN's amendment is as follows:

In the text of the Mondale amendment, after the words "uniform basis" insert a period, strike the remainder of the sentence, and add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority or which requires the consolidation of two or more local educational agencies for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all apepals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. GRIFFIN. Mr. President, the parliamentary situation, as I understand it, until this most recent amendment was offered, was that we would have voted on the Mondale amendment, as amended by the Mansfield-Scott amendment so that the vote, if it had occurred—at least in the interpretation of the junior Senator from Michigan—would have been a repetition of the vote we had yesterday.

It seems to me that such a vote probably would have served no useful purpose, and I think that most Senators, after this morning's debate are now ready to vote on the so-called Griffin amendment. This amendment is now the pending business, and I am ready to yield back the remainder of my time.

Mr. SPONG. Mr. President, will the Senator from Michigan yield for one question?

Mr. GRIFFIN. I yield.

Mr. SPONG. Does the amendment as offered today contain a modification regarding consolidation which the Senator from Michigan accepted yesterday?

Mr. GRIFFIN. I would say to the Senator from Virginia that it does retain that language.

Mr. MONDALE. Mr. President, I oppose the amendment of the distinguished junior Senator from Michigan.

Amendment No. 915 seeks to deprive Federal courts and agencies of all power to require transportation of students in order to eliminate racially discriminatory school assignment policies. This amendment is unconstitutional. And it attempts to protect racial discrimination of the clearest sort.

The courts require desegregation only where it is necessary to correct past racial discrimination. Yesterday I discussed several examples of intentionally segregated public education. In Pasadena, Calif., for example, a Federal district court found that the school district had:

Intentionally gerrymanded attendance zones to concentrate black students in particular schools, and white students in other schools.

Provided transportation to permit white students to avoid integration.

Contributed to the racial identifiability of its schools by assigning the great majority of its black teachers and administrators to predominately black schools—even assigned substitute teachers on a racial basis—and concentrated less well educated, less experienced and lower-paid teachers in majority black schools.

Denied advancement to administrative positions on a racially discriminatory basis.

Regulated the size of schools to assure that integration would not take place—and located portable classrooms at black elementary schools to prevent the assignment of students to adjoining white schools.

Permitted transfers out of "neighborhood schools" when the stated purpose was clearly to foster segregation.

Residential segregation in Pasadena was no accident. From 1948 until 1968 the court found that virtually every Pasadena realtor refused to sell homes to Negroes located in white residential areas. In fact, Pasadena realtors interpreted the realtors' code of ethics to render such sales unethical.

Mr. President, no one likes transporting children to school. But it is a fact that 40 percent of the schoolchildren of this country—well over half when those riding public transportation are included—are transported to school.

It is also a fact that total busing has increased very little, if at all, as the result of desegregation. Between September 1968 and September 1970 the Southeastern States—where most desegregation was taking place—experienced an increase in pupils bused of less than 3 percent, while the Midwestern States—where very little desegregation was taking place—experienced gains of over 5 percent.

In Alabama, Mississippi, and South Carolina the number of students bused decreased. In Louisiana and Florida although the number of students bused increased, the average distance decreased substantially. Mr. President, I ask unanimous consent that statistics on pupil transportation compiled by the Department of Health, Education, and Welfare and the Department of Transportation may appear in the RECORD at the conclusion of my remarks.

The issue is not busing. The issue is whether we will move ahead to make desegregation work educationally—as title VI of the committee amendment, the Emergency School Aid Act, would do—or whether we will try to turn back the constitutional clock, as the pending amendment would do.

And amendment No. 915 is plainly unconstitutional as it applies to courts. The equal protection clause does in some instances require reasonable transportation to overcome past racially discriminatory student assignment practices.

As the Supreme Court held in Swann against Charlotte-Mecklenburg:

We find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

And as the Court held in reversing a North Carolina statute similar to amendment No. 915:

Just as the race of students must be considered in determining whether a Constitutional violation has occurred, so also must race be considered in formulating a remedy. . . . We likewise conclude that an absolute prohibition against transportation of students assigned on the basis of race, "or for the purpose of creating a balance or ratio" will similarly hamper the ability of local authorities to effectively remedy Constitutional violations . . .

. . . As transportation has long been an integral part of all public educational systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it. North Carolina against Swann (1971).

The Constitution deals only with segregation which is the result of racially discriminatory official action. But once school officials have taken account of race in assigning students and locating schools, an effective remedy cannot be achieved without taking race into account—and reasonable transportation may also be needed.

Amendment 915 attempts legislative repeal of the Swann decision, handed down by the Supreme Court last March. But it has been clear at least since Marbury against Madison was decided in 1803 that Federal statutes which violate constitutional standards are void.

It cannot be argued that the clause authorizing legislation "necessary and proper" to enforce the 14th amendment provides authority for altering the amendment's requirements as determined by the courts. The Supreme Court settled that issue in 1965, in deciding Katzenbach against Morgan:

Section 5 [the necessary and proper clause of the 14th Amendment] does not grant Congress power to exercise discretion . . . in effect to dilute equal protection and due process decisions of the Court . . . Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by Section 5—a measure to "enforce" the Equal Protection Clause since that clause by its own face prohibits such State law.

Nor can it be argued, on the basis of Ex Parte McCardle (1803) that amendment No. 915 is a valid effort to limit the jurisdiction of the Federal courts under article III of the Constitution.

There is some question whether McCardle would be affirmed today. See Justice Douglas' dissent in Glidden against Zdanok (370 U.S. 530). But at any rate amendment No. 915 is not an effort to limit "jurisdiction" as that term is used in McCardle and article III.

In McCardle, Congress removed the Supreme Court's entire appellate jurisdiction over habeas corpus cases. Amendment 915 does not attempt to limit the power of the courts to hear a particular class of cases. The amendment attempts to limit the remedies which may be imposed once a case has been heard and a constitutional violation found.

If statutory efforts to alter constitutional rights and remedies could be made successful merely by reciting the word "jurisdiction" the Congress could overrule any court decision, and the Constitution would be just a piece of paper.

Mr. President, the enactment of amendment No. 915 would pit the Congress against the courts—and the confusion it would create would be a tragedy for the 11 million children now attending 1,500 desegregating school districts.

I urge the Senate to defeat this harmful amendment.

Mr. TALMADGE. Does the Senator from Michigan desire the yeas and nays?

Mr. GRIFFIN. Yes; I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GRIFFIN. Mr. President, I am prepared to yield back the remainder of my time on this side.

Mr. President, I withdraw that. I reserve the time for a quorum call, and I suggest the absence of a quorum. Except for that, I yield back the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on the adoption of amendment No. 934 by the Senator from Michigan to the amendment of the Senator from Minnesota, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Minnesota (Mr. HUMPHREY).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Arkansas (Mr. MCCLELLAN) is paired with the Senator from New Jersey (Mr. WILLIAMS).

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from New Jersey would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from California (Mr. TUNNEY), the Senator from Maine (Mr. MUSKIE), the Senator from Washington (Mr. JACKSON), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. PACKWOOD) and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "nay."

The result was announced—yeas 43, nays 40, as follows:

[No. 61 Leg.]

YEAS—43

Allen	Curtis	Hruska
Allott	Dole	Jordan, N.C.
Baker	Dominick	Jordan, Idaho
Beall	Eastland	Proxmire
Bennett	Ellender	Randolph
Bentsen	Ervin	Roth
Bible	Fannin	Smith
Brock	Fong	Spong
Buckley	Fulbright	Stennis
Byrd, Va.	Gambrell	Talmadge
Byrd, W. Va.	Goldwater	Thurmond
Cannon	Griffin	Tower
Chiles	Gurney	Young
Cook	Hansen	
Cotton	Hollings	

NAYS—40

Aiken	Hatfield	Pastore
Anderson	Hughes	Pearson
Bellmon	Javits	Pell
Boggs	Kennedy	Percy
Brooke	Magnuson	Ribicoff
Burdick	Mansfield	Schweiker
Case	Mathias	Scott
Church	McGee	Stafford
Cooper	McIntyre	Stevens
Cranston	Metcalf	Stevenson
Eagleton	Mondale	Symington
Gravel	Montoya	Weicker
Harris	Moss	
Hart	Nelson	

NOT VOTING—17

Bayh	McClellan	Saxbe
Hartke	McGovern	Sparkman
Humphrey	Miller	Taft
Inouye	Mundt	Tunney
Jackson	Muskie	Williams
Long	Packwood	

So Mr. GRIFFIN's amendment to Mr. MONDALE's amendment, as amended, was agreed to.

Several Senators addressed the Chair.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLEN. Mr. President, I move to lay that motion on the table.

Several Senators addressed the Chair.

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, I believe the request for the yeas and nays was made before the motion to table.

The VICE PRESIDENT. There is a sufficient second. The yeas and nays are ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GRIFFIN. Mr. President, what is the vote on?

The VICE PRESIDENT. The vote is on the motion to table the motion to reconsider.

Mr. GRIFFIN. The vote is on the vote to reconsider or the motion to table?

The VICE PRESIDENT. The vote is on the motion to table.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MANSFIELD. It is my understanding from a visual observation that as soon as the distinguished Senator from North Carolina made the motion to reconsider, the distinguished Senator from Minnesota asked for the yeas and nays, and then it was followed by the motion to table.

Mr. ERVIN. Mr. President, the Senator from Alabama made a motion to lay the motion on the table.

Mr. ALLEN. Mr. President, a point of order.

The VICE PRESIDENT. In response to the Senator from Montana, the Chair will consult the Parliamentarian a moment.

The Chair is advised by the Parliamentarian that if the motion to table fails, we will get back to the motion to reconsider, on which there will also be a rollcall vote.

The question is on the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Minnesota (Mr. HUMPHREY).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Arkansas (Mr. MCCLELLAN) is paired with the Senator from New Jersey (Mr. WILLIAMS).

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from New Jersey would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting the Senator from Ohio (Mr. SAXBE) would vote "nay."

The result was announced—yeas 44, nays 41, as follows:

[No. 62 Leg.]

YEAS—44

Allen	Curtis	Hruska
Allott	Dole	Jordan, N.C.
Baker	Dominick	Jordan, Idaho
Beall	Eastland	Proxmire
Bennett	Ellender	Randolph
Bentsen	Ervin	Roth
Bible	Fannin	Smith
Brock	Fong	Spong
Buckley	Fulbright	Stennis
Byrd, Va.	Gambrell	Taft
Byrd, W. Va.	Goldwater	Talmadge
Cannon	Griffin	Thurmond
Chiles	Gurney	Tower
Cook	Hansen	Young
Cotton	Hollings	

NAYS—41

Aiken	Hatfield	Pastore
Anderson	Hughes	Pearson
Bellmon	Javits	Pell
Boggs	Kennedy	Percy
Brooke	Magnuson	Ribicoff
Burdick	Mansfield	Schweiker
Case	Mathias	Scott
Church	McGee	Stafford
Cooper	McIntyre	Stevens
Cranston	Metcalf	Stevenson
Eagleton	Mondale	Symington
Gravel	Montoya	Tunney
Harris	Moss	Weicker
Hart	Nelson	

NOT VOTING—15

Bayh	Long	Muskie
Hartke	McClellan	Packwood
Humphrey	McGovern	Saxbe
Inouye	Miller	Sparkman
Jackson	Mundt	Williams

So the motion to table was agreed to.

Mr. ERVIN and Mr. JAVITS addressed the Chair.

The VICE PRESIDENT. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, on behalf of myself and Senators ALLEN, BAKER, BENNETT, BROCK, BYRD of Virginia, EASTLAND, ELLENDER, GAMBRELL, GURNEY, HOLLINGS, JORDAN of North Carolina, LONG, MCCLELLAN, SPARKMAN, STENNIS, TALMADGE, THURMOND, and TOWER, I send to the desk a perfecting amendment to the Mondale amendment and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

Before the word "all" on page 1, line 1, insert the following new sentence:

No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever the State or local authorities controlling or operating any public school in any State, district, territory, Commonwealth, or possession of the United States to deny any student admission to the public or private school nearest his home which is operated by such authorities for the education of students of his age or ability. The Congress intends this statutory provision to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school system, public school, student, or person, and to every circumstance and situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares that its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on this perfecting amendment.

The PRESIDING OFFICER (Mr. STEVENSON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself such time as I may use from the time allotted to me.

This is a very simple amendment. A hue and cry has arisen throughout this Nation where the Federal courts or the Department of Health, Education, and Welfare have insisted that little children be denied the right to attend their neighborhood schools.

This amendment provides that no court, no department, no agency, no officer of the United States can require a local school board to deny to any child in the United States or its possessions admission to his neighborhood school—that is, the school nearest to his home which is open for the education of children of his age and educational standing.

The Brown case laid down the proposition that it is a violation of the equal protection clause of the 14th amendment for State school authorities to deny any child admission to any school on account of that child's race. The recent decisions on this question have said that the 14th amendment requires a State to establish a unitary system, and that a unitary system is a school system in which no child is effectively denied admission to any school on account of the child's race. That is the definition used by Chief Justice Burger in the Norcross against Memphis case. It is also the ruling in all of the other cases on this subject.

It is an ironical thing that when the local school authorities comply with the requirements of the 14th amendment by admitting children of all races, all religions, and all national origins to their neighborhood schools, a Federal court or the Department of Health, Education, and Welfare should inject itself into the picture and require a school board to deny to a child admission to his neighborhood school on account of the child's race or religion or national origin.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I yield.

Mr. PASTORE. I do not think the Senator says anything about race or national origin in his amendment.

Mr. ERVIN. It says "any child."

Mr. PASTORE. It says "any child," or "deny any student admission." Should not the Senator put the language in the amendment "because of race, national origin, or religion"? In other words, what if the school is not big enough for all the neighborhood children? That is the point.

Mr. ERVIN. Yes.

Mr. President, I ask unanimous consent that I may modify my amendment by inserting on line 3 of page 2, between the word "student" and the word "ad-

mission" the words "of any race, religion, or national origin."

Mr. SCOTT. Mr. President, reserving the right to object, would the Senator first designate the number of his amendment, so I may follow it?

Mr. ERVIN. It is a modification of amendment 916. It is 916, as I understand it, modified to make it a perfecting amendment to the Mondale amendment.

Mr. SCOTT. If the Senator will indulge me, I will see if I can find No. 916. The Senator is so prolific in his amendments.

The Senator seeks to modify it on page 2, line 3, in what degree?

Mr. ERVIN. On line 3, page 2, I ask unanimous consent to modify the amendment by inserting after the word "student" and before the word "admission" the words "of any race, religion, or national origin."

Mr. SCOTT. Mr. President, I reserve the right to object, but I will not object, because the Senator's amendment is so shriekingly bad that anything will improve it.

Mr. ERVIN. I regret very much that the Senator from Pennsylvania entertains the same opinion about my amendment that I entertain about his amendment.

The PRESIDING OFFICER. Without objection, the amendment will be modified as requested.

Mr. ERVIN. Mr. President, I think that one of the worst tyrannies that has been practiced by the Federal Government is the tyranny of denying little children the right to attend their neighborhood schools. In the city of Charlotte in my State, the court entered an order denying that right to thousands and thousands and thousands of little children, mostly black, who were in the first grade, the second grade, the third grade, and the fourth grade, and not only ordered that these little children should be denied the right to attend their neighborhood schools but also that they should be bused substantial distances to other schools, merely to change the racial composition of the neighborhood schools and the racial composition of the other schools.

As a result of that order, the household arrangements of thousands of the families of the city of Charlotte, of which these little children are members, are disarranged by the tyrannical action, and many of these little children are required to arise at an early hour of the morning, go out into the rain and into the sleet and into the snow, and await the arrival of school buses to transport them from their home areas, away from their friends, and away from their families, to distant schools. Many of them, in order to be ready at the school bus sites, leave their homes as early as 6 o'clock in the morning.

Many of them do not get back home until 5:30 or 6 o'clock in the afternoon. And, mind you, these are small children, first grade children, second grade children, third grade children, and fourth grade children.

There is something in the King James Version of the Bible about that it is better for a man that a great millstone be hanged about his neck and he be drowned in the depths of the sea than that he should wrong a little child. What this amendment proposes to do is exempt these little children, little children all through the United States, from being denied, at the instance of the Federal Government, the right to attend their neighborhood schools which are open for the education of children of their ages and their educational standards.

When a Federal court orders a school board to deny a little child admission to his neighborhood school on account of his race, on account of his religion, or on account of his national origin, it is ordering the school board to violate the equal protection clause of the 14th amendment.

Mr. PASTORE. Mr. President, will the Senator yield for another question, for clarification?

Mr. ERVIN. I yield.

Mr. PASTORE. Would this amendment in any way prevent a State or local authority in the case, let us say, of a black child who lives in more or less a black area the right to be bused, if that child and his parents felt it desirable, let us say, to a white area?

Mr. ERVIN. No, I drew this amendment specifically for that purpose. If the Senator will notice, it only relates to the nearest school.

Mr. PASTORE. I would like to go over that. In other words, while it may be that this does protect a white child, let us say, in his neighborhood school, when that neighborhood happens to be completely white, the argument has been made that there are some schools in areas, that have been deliberately constituted that way, where a black child is confined to going to, let us say, a black school, even sometimes against his own will.

This amendment is a restriction upon a court and a restriction upon a Federal agency, as I understand it; but let us assume that, for the tranquallity of a community, a school board should wish to take some black children out of a black area and, with the consent of those black children and their parents, send them to a white school in another area. Is there anything in this amendment that would prevent that?

Mr. ERVIN. Not at all, because this amendment does not relate to the action of the local authorities whatsoever.

Mr. PASTORE. In other words, what the Senator is doing here is protecting the neighborhood schools and the right of the children within the neighborhood to go to those schools and not to be disturbed against their will?

Mr. ERVIN. That is right.

Mr. PASTORE. But he is not preventing, let us say, a State authority from transporting black children to that white school?

Mr. ERVIN. Not at all. In other words, this places no limitation whatever upon the authority of the local officials; and moreover, there would be no limitation upon the Federal courts where district lines have been artificially devised for the purpose of enforcing segregation.

In other words, that is the reason I use the words "the school nearest his home," rather than "the school system."

Mr. PASTORE. Is it fair to assume, then, that this amendment would not disturb the quality of the good schools, but would enable the child who is in a school of lesser quality to be transferred to a better school?

Mr. ERVIN. It would not affect that question at all. It would not keep him from being transferred.

Mr. PASTORE. In other words, if the local school board saw fit to do so?

Mr. ERVIN. That is right. In other words, this amendment does not disturb in any respect the authority of the local school officials to do whatever they please in assigning children to local schools where they think it would improve their educational advantages.

Mr. SCOTT. Mr. President, will the Senator yield further on that subject?

Mr. ERVIN. I yield.

Mr. SCOTT. What actually would happen here would be that if you had a school in an all-white neighborhood, and freedom of choice were exercised to the extent that all the children in the all-white neighborhood elected to go to that school to its capacity, the school would end up all white, is that not true?

Mr. ERVIN. No, the Senator is wrong in that assumption.

Mr. SCOTT. Why?

Mr. ERVIN. Because this refers only to the right of a child to go to the school nearest his home.

Mr. SCOTT. That is true.

Mr. ERVIN. And I put that in deliberately, because in the situation mentioned by the Senator from Pennsylvania, if the school authority ran the lines of the school district in such a way as to protect segregation, then the Federal courts would be left free to act.

Mr. SCOTT. But if all of the homes adjacent and closest to that school happened to be white homes, would not all of the children who go there, to the capacity of the school, be white? How does the Senator get away from that?

Mr. ERVIN. Well, the Senator is laying down some principles that prevail pretty substantially in his home city of Philadelphia, where the white schools are largely white and the black schools are largely black.

Mr. SCOTT. Well, the Senator is not correct on that, either.

Mr. ERVIN. Perhaps the Senator from North Carolina has not heard over the radio of the great controversy that is going on in some of the suburbs of Philadelphia.

Mr. SCOTT. If the Senator wants to say that the situation is as bad in parts of the North as in parts of the South, I agree with him, but two wrongs do not make a right. Will not the Senator admit that his so-called freedom of choice amendment is an attempt to repeal the Civil Rights Act?

Mr. ERVIN. It is nothing of the kind. It merely says that the Federal Government cannot deny a little child of any race, any religion, or any national origin admission to his neighborhood schools.

Mr. SCOTT. Which is a repeal of a part of the Civil Rights Act; is it not? The Senator is a great constitutional lawyer; he knows it is a repealer.

Mr. ERVIN. No, it does not affect the Civil Rights Act of 1964. It is in harmony with that act.

Mr. SCOTT. The Senator is convinced that the effects of his amendment would in no way alter the operation of the previous Civil Rights Act; is that correct?

Mr. ERVIN. I cannot see where it would alter it.

Mr. SCOTT. Because if he is, I would have to ask him why he is offering his amendment.

Mr. ERVIN. The Civil Rights Act of 1964 really has very little to do with this subject, because the Civil Rights Act of 1964 was interpreted by the Supreme Court, in the Swann case, to have no relation to anything except de facto segregation.

Mr. SCOTT. De facto segregation?

Mr. ERVIN. De facto segregation. In other words, the Supreme Court handed down the astounding decision in that case that when Congress enacted the Civil Rights Act of 1964, it was legislating with respect to de facto segregation, and it stated 23 times that it did not apply to the only kind of segregation that Congress could legislate in respect to, and that was discriminatory segregation.

Mr. SCOTT. Well, the Senator's amendment applies to segregation situations whether de jure or de facto; does it not?

Mr. ERVIN. And applies in like manner to all children of all races, all religions, and all national origins, and treats them exactly alike. For that reason, it is in harmony with the equal protection clause of the 14th amendment.

Mr. SCOTT. And the Senator says it would put a halt to the segregation process?

Mr. ERVIN. It would put a halt to this theory of denying them the right to attend their neighborhood schools for no reason whatever except integrating purposes.

Mr. SCOTT. The Senator has answered the question. I want to be sure that he is convinced as to what he is up to, and now we both know what he is up to.

Mr. ERVIN. The Senator from North Carolina is up to the very fine purpose of giving liberty to little children to attend their neighborhood schools regardless of their races, regardless of their religions, and regardless of their national origins. It does not affect the power of Federal courts to deal with situations where there are discriminatory practices, because it has nothing to do with the laying of district lines as to the school nearest their homes.

I yield the floor and reserve the remainder of my time.

Mr. SCOTT. Mr. President, will the Senator from Rhode Island yield 5 minutes to me?

Mr. PELL. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the distinguished and very able Senator from North Carolina opened up by referring to a hue and cry. Well, I am "hue-ing" and I cry, but I cry not for myself. I weep for the Senate, because, indeed, as I predicted in the celebrated interview in U.S. News & World Report, which has been adverted to so often here, the Senate was prepared to waffle on this issue of busing.

The Mansfield-Scott amendment was submitted to put an end to the waffling. It was submitted in order that we might have a definitive opinion of the Senate, which we obtained, following which we have an amendment adopted which has enabled Senators now to take the other side of the issue and waffle—to take a position which would repeal title VI of the Civil Rights Act.

Following that victory, which I sincerely hope is temporary, the next move is to repeal most of the Civil Rights Acts as they pertain to education. That is done by device. It is done by a time-honored device of finding words which have a very pleasant meaning and affixing those words to your motivations, to your actions. So the movement is plausibly but misleadingly entitled "Freedom of Choice," which means here, in effect, freedom to abolish the Civil Rights Act.

It is pleasing, indeed, to the person not learned in the law, for example, to hear that all the distinguished Senator from North Carolina wants to do is to pat little children on the head and take them by their hand and escort them to the little red schoolhouse, where he will leave them all happily ensconced under his freedom of choice plan, until the time comes for them to return home in the sunset. This is a very pretty picture. It has nothing whatever to do with the issue.

What the Senator from North Carolina is seeking to do here, in effect, is to turn the clock back, to repeal the civil rights provisos, to terminate all the long and hard fought gains which have been achieved in an imperfect world and in an imperfect fashion in the United States of America, to turn them aside because presently there is a great emotional issue, an issue which concerns all of us, which we all share, an issue which involves the busing of little children.

Our amendment, it is true, put limitations on the form of busing, and we defer the operation of the actions of the courts until final appeal to a date certain; so that we have gone as far as we think we can. But freedom of choice ought to be given a more apt definition. All it is is a decision to enable the all-white schools to remain all-white under all circumstances and to put everybody neatly into their places, to compartment them and divide them and keep them that way. That is what freedom of choice would mean, because it divests the Federal court of any authority in this field. It divests the State government, by implication, if the 14th amendment can be so tampered with, and it divests the school district and the local community. It says nobody shall do anything except to let the parents decide where they want their children to go, with the result that some schools will be overcrowded and some will be abandoned, with the result that some school establishments and facilities will be emptied and others will be overcrowded. That is what happens to the little children for whom the Senator from North Carolina weeps so convincingly. That is all this does.

This now is the boldest and the most daring attempt we have seen in the 92d Congress to rescind what previous Congresses have done with so much difficulty and over so many years.

We have heard the argument that it affects one section of the country more than another. That does not move me, because it is true. It is true that the fault exists in the North and in the South. It is true that there are people in all these areas who would gladly jump on this issue, in the hope that they will ease the concerns of the parents and of the public by saying to them, "We voted against busing." The public never does get to understand that what they did was also to vote against all the actions we have taken in all these previous Congresses. I have been here for 13 years, and in 13 years we have struggled and argued and sought gains and achieved them.

Much of that gain would be turned back by the Ervin amendment. This amendment is the worst amendment yet. But if Senators are going to come in here and vote "yea" on any amendment, again I say that I weep for the Senate; because this "yea-vote-for-every-amendment" is bound to result in concern and the question of consistency. Every Senator has a right to vote as he wishes. I do not criticize that. But I would like us to vote selectively. I would like us to vote for something that will work.

I think that the Senator from North Carolina, as a great constitutional lawyer, is well aware of the fact that once the court gets their hands on the previous amendment and this, they will go out the window as unconstitutional.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL. I yield 1 additional minute to the Senator.

Mr. SCOTT. Meanwhile, some 5 years or more will elapse before the courts will get around to sustaining the charter of our liberties, the 14th amendment. That is what will happen here.

The freedom of choice amendment will go down the drain if it proves to be in contravention of the 14th amendment. The amendment previous to this one will go down the drain by divesting the courts of any authority in this field, if that proves to be in contravention of the Civil Rights Act and the 14th amendment.

Mr. ERVIN. Mr. President, in any free society—and I emphasize the words "free society"—children should have the right to attend the school nearest their homes. That is all I am fighting for.

I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, I am interested in this debate, and I am most interested in the comments of the Senator from Pennsylvania, for whom I have enormous and continuing respect and regard.

When he says, in this instance, that he weeps for the Senate, I, frankly, would weep for a nation whose senate was not responsive to the will of that nation. That appears to be the case with respect to our children and what is happening to them as a result of judicial abuse in this country.

The amendment which is proffered at this point by the distinguished Senator from North Carolina would afford a

child, if he chose, the right to go to the school which is nearest to his home—nothing more, nothing less. It would do nothing to limit the application of the 1964 Civil Rights Act. As a matter of fact, rather than limit the rights of children, it would enhance those rights, because today they have no rights. Too often they are being treated as wards of the state.

I would remind the Senate that in 1925 the Supreme Court ruled on a complex constitutional question regarding the schools in the State of Oregon. The State legislature in Oregon had required, by law, that every child in that State should go to a public school. That was done in an age of intense religious bigotry and in an effort to eliminate all parochial schools in Oregon. The Supreme Court invalidated that law with the comment—that such a law was unconstitutional because "children are not creatures of the state."

I agree with that ruling. It was right, yes, in 1971 the Court reversed itself and the effect of the 1925 decision, as well as the effect of the 1954 Brown decision. Today busing for numerical balance is nothing less than treating children as "creatures of the state" as they are transported for racial, not educational, purposes.

In 1954 the court said, "You shall not discriminate against a child because of his race." That was an absolutely, fundamentally, morally sound decision to make. It eliminated the so-called dual system which required busing to maintain segregation. In 1971 that decision, too, was reversed. Today, in Nashville, Tenn., and in other communities around the country, children are being bused because of their race. That is the only criterion used.

I would ask those who are so positive in support of the concept of compulsory busing whether they are not treating these children as creatures in fact of the state rather than as children of their parents.

By what conceivable logic can one argue that a child of his parents should not have the right to attend a neighborhood school?

By what conceivable arrogance can one say that a certain mixture, a certain ratio, a certain statistical balance is necessary for the well-being and maturation of a black child simply because he is forced to sit beside x percent of whites? How condescending, how patronizing, how racist can you be?

I cannot imagine the Senate's refusing to support an amendment such as this. I cannot imagine, in effect, supporting those decisions which say that children are nothing but pawns to be moved on a Federal chessboard by a Federal judge who has no knowledge of or concern for the situation.

It is incredible to me that some do not take a look at what is actually happening—not the theory but the fact.

Why does not someone talk to the child in my community of Chattanooga who was beaten up last week by two students who had been bused to his school, two students the child had never seen before. He was beaten up, not because they knew him, or because they hated him, but because of the total climate of hate inculcated into that institution as a result of judicial abuse over which neither the child nor his parents had any control.

Why does not someone talk to the mother of three children in Nashville, Tenn., whose youngest child goes to school at 6 o'clock in the morning, and because the mother works, the child gets home at noon to stay, alone, for 4 hours, and whose second-grade child goes to another school at 10 o'clock and thus is home alone for 3 hours. Are they now being treated as "creatures of the state" because of the excesses of a Federal judiciary which has run amuck.

I support the amendment of the Senator from North Carolina because I think it is an attempt to restore to our children and their parents a voice in the community and in the educational process. This is the exercise of freedom.

If there is any such thing as abuse of freedom in this country, it is at that time when that voice is removed from that family and that child.

I commend the Senator from North Carolina for offering this amendment and I support him in it.

Mr. ERVIN. Mr. President, I am going to withdraw the amendment temporarily and offer it again as an independent amendment on Monday next.

Mr. SCOTT. Mr. President, before the Senator withdraws his amendment, will he give me a moment to discuss it further. I shall not be a minute. It is in line with what the Senator said. He has a right to withdraw his amendment and bring it up again on Monday so it can be considered with all its impact, pro and con, in the news media between now and Monday, which will give me a chance to issue invitations to absentee Senators to be here on Monday next.

I know we do not have time to get the amendment engraved and send it down to Florida where there is a primary going on, or to New Hampshire where there is another primary going on, but there are five presidential Senators whose absence probably made the difference on the last amendment.

I believe a number of those five Senators have made statements indicating opposition to what the last amendment tried to do, indicating strong support for civil rights and opposition to any repeal of any part of what has been sought by the authors of these amendments in opposition to the Scott-Mansfield amendment.

They are noble statements, but they will vary whether they are made in Florida or in New Hampshire. They will vary more when they get to Illinois.

But as long as the Florida primary is now pending, at least five senatorial Presidents or presidential Senators-to-be, who find it inconvenient to attend sessions of the Senate, are responsible for the loss of that last amendment. I serve notice on them now that we are going to have to meet the issue some time. If they are responsible for the adoption of the freedom of choice amendment on Monday, and if these five presidential Senators or senatorial Presidents-to-be are satisfied with their rhetoric and wish to avoid action on the floor of the Senate, which I deplore and would not charge them with, but if they want to avoid it, they are on notice now that this difficult question of freedom of choice will have to be decided. They may want to stay in Florida or in New Hampshire or in Illinois, but the place to be is in this Chamber to vote for or against. In this Chamber is where they are paid to be, at $42,500 a year plus a modest travel allowance and a stationery fund.

It would not hurt to have them here. We welcome them. There are times when we can do business without them a little better and a little more expeditiously, but when we have critical votes coming up in the Senate I would rather hear those Senators' views on the floor of the Senate than have to read in the newspapers what they said in Florida today, in effect, that they were against busing; and then they go up to New Hampshire and I read in the newspaper that a Senator may be on the other side of that issue.

I have said it before, let us face the fact that adoption of freedom of choice will be to repeal all the gains we have made in the educative field in civil rights legislation. It deserves to fail.

How ironic it would be for a man who wants to be President to allow one of the great issues of the day to go up or down because of his absence, because of his inability or his unwillingness to face the music.

I should like to inform these presidential Senators or senatorial Presidents-to-be that the music is here. The band is here, in this Chamber. If we are not a symphony, at least this is the place where the action is. Nothing else counts and nothing else should count.

If I were a voter in New Hampshire or Florida, Illinois or Wisconsin, I would want to know that my Senator was on the floor and I would want to know what Senators were here to vote, what Senators will dare to vote, will dare to be a Daniel, will dare to do the right thing—because Daniel's absence is no Daniel. Daniel's presence may be uncomfortable as the devil, but he is here and doing his job.

Mr. President, I have had to face many tough votes. This one gives me a great deal of sadness because it divides both parties. It gives me a great deal of concern because I wish I could agree with my colleagues, whom I respect so much. I honor them for their strongly held views, but I have held the very same views for 13 years in the Senate, and before that in the other body, so I suppose it is too late for me to change. In any event, I am stuck with them. However, the views I hold are known to the people of my State. They conducted a poll about it and of 100 percent it showed that 61 percent of the people said, "We do not agree with Scott on some of the busing issues." Of the same 100 percent, 58 percent of the people inteviewed, however, said on being asked whether they approved generally of Senator SCOTT, said, "Yes, we agree with Senator SCOTT. He is doing the right things as a Senator. We are for him."

And 10.8 percent said they did not agree, and the rest did not know.

If I had the names of those who do not know, I would write them. It is good to know that a lot of the people statewide agree with me. A lot of people do not agree with me on busing, and I freely admit it and say so to the opposition. However, the same majority say that I am doing the right thing on my whole record, because I am going by my principles.

And I am saying that many of my colleagues are standing up for the right thing. Many of them are torn by this amendment. I have no feelings as to how anyone votes. I am speaking as a believer and as an advocate. It is better to be able to speak as an advocate and a believer. That does not mean that I know what will happen. It only means that I know what I would like to see happen.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. COOPER. Mr. President, I am always delighted to listen to my distinguished minority leader. I compliment him on his frankness and his forthrightness with respect to his civil rights position throughout the years and I have voted with him throughout the years.

Is it not true that some of the Senators who are candidates for President have been very critical of what they call the vague proposals of the President on busing?

Mr. SCOTT. That is quite true.

Mr. COOPER. Mr. President, our President has proposed—and I do not know whether it is workable, but at least it is a straightforward method—approaching this problem by means of a constitutional amendment. That is straightforward, is it not?

Mr. SCOTT. Some of the President's advisers have suggested that the President is considering that as one option, as well as other approaches.

Mr. COOPER. Mr. President, if it should go that way and if a constitutional amendment should be adopted, that is perfectly straightforward and constitutional. It means that Congress would act upon it and that the legislatures would act upon it. That is forthright.

I think also that it has been proposed that in cases before the court, that the Department of Justice could argue certain points for their consideration and for their persuasion. I do not see anything wrong with that.

If the administration and the Department of Justice believe that they should argue, for example, the questions of age, health, the length of the journey, safety, the quality of the schools, and perhaps other factors, it is perfectly straightforward and legal.

Mr. SCOTT. Yes, indeed.

Mr. COOPER. Mr. President, I wanted to make the point that those are straightforward methods. And I believe those candidates who now complain about busing could make themselves a little clearer on this issue.

Mr. SCOTT. I agree with the distinguished Senator from Kentucky.

Some of them have accused the administration of being insufficiently clear and have said that they have strong views about the matter. This is the forum by which they can work to put their views into effect. However, they show a strong unwillingness to do so, whatever their reason may be.

Mr. COOPER. Mr. President, although I have voted against the so-called antibusing amendments, I must say that I think the proposal of the Senator from Michigan (Mr. GRIFFIN) is certainly a straightforward one. It is an attempt to take jurisdiction away from the courts.

The amendments offered by our colleagues, the distinguished Senators on the other side, particularly those from the South, are certainly understandable. While I have not voted for them they present issues which we can understand. I compliment them for that, although they do not get much attention on their arguments.

I must now be critical. I do not feel that way about the Mansfield-Scott amendment. I think it is all over the lot.

If a Senator is against busing, then I think he ought to be against it. If he is for busing, I think he ought to be for it. If Senators feel that some modifications ought to be made, we ought to submit amendments which are constitutional. Earlier, I heard the Senator from Minnesota (Mr. MONDALE) say that the amendment did not turn back from the progress that has been accomplished in all of these years. I think it turns back. It is a retreat. I am sure it is not the intention of the Senator from Pennsylvania or the Senator from Montana. Both Senators have said forthrightly that, they would like to have the time that the amendment provides to review the issue of busing and determine what could be done about solving it.

But Senators have made the point. That is understandable and has merit. However, I think that the argument that other provisions of the amendment, if constitutional would have no effect upon school desegregation is incorrect.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from Kentucky.

Mr. BROCK. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield now to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, in the last colloquy the Senator from Pennsylvania has demonstrated again that he not only has the respect which has been evidenced by all Members on this side of the aisle, but also that he has the respect of his people.

I appreciate the Senator's comments. The Senator knows that if I were one of those who had been interviewed, I would be in the 61-percent group opposing his position on this matter.

Yet, I respect the Senator for his forthrightness on this issue and his support from the people of Pennsylvania, and I respect his beliefs.

Mr. SCOTT. Mr. President, I thank the Senator from Tennessee. I am extremely grateful. I have to admit that my constituency is rather heavily against me at the moment. However, these things come and go. If I am working to do something a month from now, it may be something which they all want and which I want. I will be glad to be as affirmative on that. However, they have to let this one through.

Does the Senator from North Carolina desire any time?

Mr. ERVIN. No; I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, what is the parliamentary situation with this amendment withdrawn?

The PRESIDING OFFICER. The question is on agreeing to the Mondale amendment as amended.

Mr. HART. Mr. President, the Senate is now engaged in what has become an annual debate on the busing of students as one way to help bring school systems segregated by law or public policy into compliance with the Constitution.

Today the debate is over legislative proposals to curb or prohibit the use of busing for this purpose. Later this year the debate may be over a constitutional amendment dealing with the same question.

I shall oppose any bill or constitutional amendment which will make more difficult or impossible our responsibility to end segregation in public schools through reasonable integration plans.

To vote otherwise would be to condone a step backward from the 1954 decision of the Supreme Court in Brown versus the Board of Education, a decision which through subsequent interpretations finds that the doctrine of "equal but separate" as relates to all governmental action and race is unconstitutional.

Equally important, such a step could be interpreted as a weakening of the Nation's commitment to the even broader concept that in the eyes of government all men are equal and free to be minorities of one in thought, belief and expression.

I reach that conclusion this way.

If we say we refuse to fix—or refuse even to try to fix—a school system segregated by public action, are we not accepting a Government policy which has divided people by race?

And even if we say we are willing to improve the quality of all schools, are we not pursuing a Government policy based on the concept of racially separate but equal public facilities?

The answer to both question is "Yes."

Correctly, the courts have found such policies unconstitutional.

Wisely, a vast majority of Americans have rejected such an approach to government.

In support of the latter contention, I refer you to the results of the National Opinion Research Center's latest poll of attitudes toward racial integration. The center, which has been conducting this survey at ten year intervals for 30 years, found that 8 of 10 whites from Northern States and 75 percent of whites from all States believe schools should be integrated. The results of the study are printed in the December 1971 edition of Scientific American.

Even if you assume that some of those polled answered on the basis of what they thought they ought to say rather than

what they believed, the findings still indicate a strong public awareness that we ought not to pursue a policy of separate but equal.

And I suspect that some straight talk and public leadership on the question of how school busing relates to the discredited concept of separate but equal would be well received by many who now oppose any and all school busing for purposes of dismantling segregated school systems.

Government policy which separates people by race, which is nothing more than an accident of birth, should be rejected because it is arbitrary and therefore serves no useful or fair purpose.

In a perfect world, in which all men are perfectly fair, what useful purpose would separation by race serve? None.

But one does not have to go that far to reject such a policy.

It is enough to recognize that we live in an imperfect world governed by fallible men and women. In such a world, history shows that when people are officially separated by race or religion, the results, whatever the motive might have been, have been regrettable in terms of human dignity and fair treatment.

We need only look at our own Nation's experience following the Civil War and the events which led to passage of the 14th amendment for an example of how such separation works in reality.

Even closer to us in time, we only have to look at the world around us today to know that nations with two-part societies are less than successful in protecting individual freedoms or in insuring domestic tranquility. To the extent we allow a two-part society continue in our country, we threaten our future.

So then, on moral and pragmatic grounds, a government policy which seeks to separate by race while claiming it will provide equal facilities and services must be rejected.

The only way to guard against the insidious harm, the potential dangers and the possible spread of such a policy is a complete constitutional ban and a never-weakening commitment to try to correct any situation arising from such a policy.

To do less can only be interpreted as a step back from the noble concept that in the eyes of government all men are created equal.

And once that step is taken, it will be difficult to limit it to blacks in public schools. The effects will ripple out into every sector of society in which we have attempted to eliminate racial discrimination. It could even erode support for the protections the Constitution gives any minority against arbitrary action by government. And if we remember that as long as we believe in freedom of thought and speech, each of us is a minority, then each of us should be concerned that such protections not be weakened.

In attempting to weigh these concerns against the effects of busing, real and imagined, I think it might be well if we kept these thoughts in mind.

Busing is neither automatically good nor bad, as evidenced by the fact that as many as 40 percent of all public school students are now bused for a variety of reasons.

Experience shows that court-ordered desegregation plans involving busing have not, despite the rhetoric of some antibusing supporters, increased "massively" the amount of busing carried out in affected areas. As pointed out by Senator MONDALE in his floor speech:

> The proportion of children riding buses to school in the Deep South is less than 3 percent above the national average, and barely 7 percent above the average for the Northern and Western States. And recent HEW studies show that aggregate busing has not increased as a result of desegregation. In Louisiana and Florida, although the total number of students bused has increased, the average distance traveled has decreased substantially.

Experience has shown that busing is expensive and that additional teacher training and counseling are helpful in making integration programs work—but that is an argument for Federal funds, it is an argument against some of these amendments which would prohibit Federal funds being used for these purposes.

Studies indicate that under a program of school integration, carefully planned and properly carried out, the child from a poor family progresses faster than he does in a segregated school while the quality of education for middle-class students does not suffer.

A proper integration plan recognizes that effects on the health and education of a child limits the amount of busing which can be required and that educationally advantaged students should not be assigned to schools with a disadvantaged majority.

Experience shows the actions of adults can have as much if not more to do with any violence connected with integration than the attitudes of students.

And finally, in a perfect world, I agree that neighborhood schools are desirable, though even then I suspect many parents would put their children on a bus if it meant an opportunity for a better education.

But at any rate, we are not in a perfect world; we are governed by a Constitution designed to protect individuals against the imperfections of man, and we must move to correct such imperfections to the extent we can.

Chief Justice Warren Burger, writing for the unanimous Supreme Court decision in the Charlotte-Mecklenburg busing case, put his thoughts this way:

> Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

Other people may base their opposition on the contention that dual school systems means inferior education for the minority—as I believe they do—but I return to the even more basic and valid premise that in any governmental action, a separate but equal policy based on race is wrong.

Let us then look at busing as useful but limited means of helping to correct a wrong.

Busing will cause concern and uncertainty, but concern and uncertainty which can be eased through public leadership and cooperation in the community and among communities.

Busing may be inconvenient, but how much more "inconvenient" will it be for our children tomorrow if we do not move now to heal the split which threatens this Nation today.

And yes, a child does not learn to multiply while riding the bus, and busing alone will not insure a quality education, but life will not be very good for the best multiplier if indeed our country is at war with itself when he or she becomes an adult.

If we can recognize the dangers that "a separate but unequal" society holds for us, can we not then recognize busing even for the little it can accomplish and get about the task of providing a better education for all children?

We can. We must, for the more important questions are how to offer and how to finance quality education for all children.

ADDITIONAL TIME FOR COMMITTEE ON RULES AND ADMINISTRATION TO FILE REPORTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate Committee on Rules and Administration have until midnight tonight to file reports on a number of money resolutions and housekeeping items.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 28, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

AMENDMENT NO. 947

Mr. SCOTT. Mr. President, at this time I send to the desk on behalf of the Senator from New York (Mr. JAVITS) and myself a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

In the text of the Mondale amendment, after the words "uniform basis," insert the following: "No provision of this Act shall be construed to require the assignment of transportation of students or teachers in order to overcome racial or ethnic imbalance".

Mr. SCOTT. Mr. President, I will not discuss this matter at any length until the Senator from New York (Mr. JAVITS) is present.

I ask that the time on this amendment be allotted, as far as the proponents are concerned, to the Senator from New York (Mr. JAVITS).

I would assume that the time for opposition would be allotted to the manager of the bill, if he is opposed to the amendment. If not, I would like to know if the Senator from North Carolina would like to assume the time. Would the Senator from North Carolina wish to assume the time on this perfecting amendment offered by me on behalf of the Senator from New York and myself, which is at the desk?

Mr. ERVIN. May I look at it? I did not see it.

Mr. SCOTT. Yes. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I will yield back all time in opposition to the Mondale amendment.

Mr. CHILES. Mr. President, the Senator means to the perfecting amendment.

Mr. ERVIN. I yield back all time to the perfecting amendment.

Mr. PELL. Mr. President, is it in order for me to suggest the absence of a quorum.

The PRESIDING OFFICER. It is.

Mr. ERVIN. On the Senator's time?

Mr. PELL. On our time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I ask unanimous consent, having consulted with the Senator from North Carolina (Mr. ERVIN) and the Senator from Alabama (Mr. ALLEN), that the amendment I have previously offered on behalf of myself and the Senator from New York (Mr. JAVITS) may be modified by changing the word "of" prior to the word "transportation" to "or", so as to make it read "the assignment or transportation of students".

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania.

Mr. MANSFIELD. Would the Chair have the clerk read that amendment again? I was not in the Chamber when it was presented.

Mr. BYRD of West Virginia. Mr. President, would the Chair clear the well?

The PRESIDING OFFICER. Senators will take their seats. The Senate will be in order.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCOTT), for himself and the Senator from New York (Mr. JAVITS), proposes an amendment to the perfecting amendment by Mr. MONDALE to the text proposed to be stricken out by the Allen amendment to S. 659.

In the text of the Mondale amendment, after the words "uniform basis," insert the following:

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial or ethnic imbalance.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, but may I state that in view of an agreement which was reached in good faith, I would anticipate that another amendment might be forthcoming; and if one is not forthcoming, this will be a live quorum.

Mr. SCOTT. Mr. President, on my time, I wish to make it clear that I was prepared to vote on the Ervin amendment at the time it came up; and, when the Ervin amendment was withdrawn, it is quite possible that some Senators who wished to be recorded against a freedom-of-choice amendment might no longer have been available.

Therefore, our concern is that we ought to bring up some amendment, other than an amendment on busing, on which we can go to the merits of a $24 billion bill, and then resume consideration of these busing amendments on Monday, in fairness to all the Senators who may have left.

I am not going to be a party to submitting amendments and withdrawing them after I thought we were going to get a chance to vote. I am willing; I am here; I am able to vote. But I have an obligation to the other Senators to protect their position, too.

Here it is nearly 3 o'clock on a Friday afternoon, and I think we ought to be voting on some other part of this bill rather than on a busing amendment on which, as of this time, we have no warning. I do not know what amendment it will be. That is why we have a perfecting amendment in, to give us an opportunity to try to arrive at some agreement.

The majority leader and I have an amendment pending, if we can get to it at the proper time. It is an amendment so important a part of this procedure that it ought to be voted on when we have a number of Senators here prepared to vote.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Would the Senator consider the possibility of beginning to vote on the amendments which have been agreed to and which are still pending on Monday?

Mr. SCOTT. I would have to defer to the Senators who are managing the bill—that is, the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from New York (Mr. JAVITS). If the Senator would state that in a few minutes, I have no objection.

Mr. MANSFIELD. If the Senator would allow me, then, and on his time, I would like to suggest the absence of a quorum and to warn the Senate that it may be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that my amendment at the desk be temporarily withdrawn and that the amendment of the Senator from Hawaii (Mr. FONG) be substituted and that, thereafter, my amendment become the pending order of business——

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. SCOTT. For the time being.

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to inquire, what is the subject matter of the amendment of the Senator from Hawaii?

Mr. FONG. It only puts the Trust Territories into the bill. It has nothing to do with busing.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state it.

Mr. BAKER. Does it affect section 901 or some other section of the bill?

Mr. FONG. No. This section just adds the Trust Territories to the bill.

Mr. BAKER. Mr. President, the point I am trying to reach is whether the Fong amendment would be, in effect, laying aside the present section of the bill now under consideration, or whether it is proposed to be added to section 901.

Mr. MANSFIELD. It is a new section.

Mr. FONG. It is a new section.

Mr. SCOTT. Amendment No. 933.

Mr. PELL. It is an addition to language in the bill.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ALLEN. Mr. President, reserving the right to object, at what stage of the proceeding would we return to the amendment on section 901, and how much time is to be allocated to it?

Mr. MANSFIELD. There are 2 hours to each amendment and the amendment which has been temporarily laid aside we would be returning to at that time; but, in the meantime, I would like to have some conferences with other Members.

Mr. ALLEN. I do not want to agree to laying aside the busing amendments unless there is a time certain for the return of the busing amendments.

Mr. MANSFIELD. As soon as this amendment is out of the way, it is my understanding that we return to the Scott amendment which is attached to the busing amendment.

Mr. ALLEN. Mr. President, would that be done this date, today?

Mr. MANSFIELD. It could be. However, I want to have a talk in the meantime. Otherwise it is pending.

Mr. ALLEN. What is pending?

Mr. MANSFIELD. The Scott amendment which he is trying to lay aside to allow the Senator from Hawaii to bring up an amendment.

Mr. ALLEN. Lay it aside for the rest of the day?

Mr. MANSFIELD. The Senator is correct.

Mr. SCOTT. Mr. President, I have a suggestion. We could always adjourn.

Mr. ALLEN. And then on Monday, we would return to the busing issue.

Mr. MANSFIELD. We probably would. However, I would like to have a conference in the meantime.

Mr. ALLEN. Mr. President, I would have to suggest the absence of a quorum if there is not going to be any return to the antibusing issue.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, in view of the fact that this situation has developed and that there are only 10 minutes left on the pending amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, now, if I could meet with some of the interested Members, I would like to have a conference.

QUORUM CALL

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PELL. Mr. President, I ask unanimous consent that the time be equally divided.

Mr. ALLEN. We have no time.

Mr. PELL. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD of West Virginia. Mr. President, is there any remaining time on this amendment out of which a quorum call could come?

The PRESIDING OFFICER. Nine minutes remain on this amendment. The yeas and nays have been ordered. Who yields time?

Mr. PELL. Mr. President, I yield the remainder of my time to the distinguished Senator from Montana (Mr. METCALF).

The PRESIDING OFFICER. The Senator from Montana is recognized.

SECRETARY LAIRD SOUNDS A RETREAT IN A NEW KIND OF WAR

Mr. METCALF. Mr. President, only a week ago, in hearings before the Senate Subcommittee on Intergovernmental Relations, Congress and the American people learned that the Department of Defense was involved in a far different kind of war—a war against skyrocketing increases in utility rates, particularly, those involving electricity and telephone services. The awesome prestige and expertise of that great agency was being asserted in defense of the utility consumers, the taxpayers and the businessman who would have to shoulder the burden of over $5 billion in rate hikes approved or pending before Federal and State regulatory agencies. Indeed, it was DOD's intention to level its guns at the inflationary problem brought on by utility price increases.

On February 15, an official DOD spokesman—Curtis L. Wagner, Jr., Chief of the Regulatory Law Office, Department of the Army—told the subcommittee:

> There are enormous rate increases going into effect all over the nation and we, of course, are alarmed at them. I can tell you at this point that we are filing a petition with the Price Board . . . protesting the level of increases that has been granted by the States to utilities and we are going to ask the Price Board to roll them back.

When the Federal Communications Commission dropped its massive investigatory case into the fairness of American Telephone & Telegraph rates, the Secretary of Defense, speaking on behalf of all Federal executive agencies, said in a prepared statement:

> This (investigation) cannot by any stretch of the imagination be allowed or justified solely on the basis of budgetary and staffing problems. The public interest demands a full and complete investigation of AT&T's practices and procedures.

DOD's subcommittee witness put further teeth into that position by telling the Congress that the Department had, since 1967, officially offered the Federal Communications Commission the use of its 3,200 auditors for a full scale probe into the A.T. & T.'s records, all of whom were "well experienced," according to the spokesman. And he said the Department was ready and willing to provide what auditors were needed right today, if the FCC really wanted to investigate A.T. & T.

Both these issues: the fight before the Federal Price Commisson; and the intention to seek a full audit of A.T. & T. were dramatic gestures by the Department which could only have been cleared at the highest level.

But Mr. President, what has happened in the last few days smacks of a scandal.

First, I have just been told that DOD's top regulatory lawyer whose briefs and petitions were fully prepared was today summarily ordered by DOD's General Counsel not to appear or file any position with the Price Commission. This is indeed a cop-out, and one can only imagine why. The heat being generated through Ma Bell's wires to the Secretary, not only by Ma Bell, but by the big utilities, must have been tremendous.

The appearance of DOD before the Price Commission was anticipated by the staff of the Commission, by this subcommittee, and by all those concerned with President Nixon's new economic policy against inflation, to be a special and serious event. By bugging out, Secretary Laird has let down not only his Chief Executive's own policy but the American people.

But this is not all, Mr. President.

A few days ago, I received an official letter dated February 16, 1972, from the DOD witness Mr. Wagner, who appeared before the Subcommittee on Intergovernmental Relations which seems to attempt to straighten out the record, but instead raises the spectre of an even greater fiasco. Mr. Wagner said in his letter:

> The thrust of my testimony was that the Department of Defense . . . had the capability and was willing to conduct an audit of the Bell System under auspices of the Federal Communications Commission. I testified that this offer had not been withdrawn and was still outstanding.

Wagner went on:

> Upon checking this morning—

That is February 16, the morning after his testimony and the morning that the Washington Post broke the story on page 1—

> I found that I misspoke myself on this latter point. The Department of Defense no longer has auditors available to conduct an audit or investigation on behalf of other agencies. I further found that the Department of Defense does not currently even

have the manpower available to do the job on a reimbursable basis, a procedure followed in assisting other departments or agencies under extenuating circumstances. I deeply regret that my information on this point has proven inaccurate.

Now who is trying to kid whom? This is an outright put-on and an insult to the integrity of the Congress. Again, it smacks of a scandal.

DOD's witness came to the subcommittee hearing on February 15, accompanied by designated legislative officials of the Department—fully prepared and authorized to be responsive to my examination as to the Department's offer to audit the books of A.T. & T. I have specifically verified that.

But when the news broke, and the heat turned to fire, the signals were switched. And this letter to me is an attempt to lock the barn after the horse has been stolen.

But there is something more sinister here. The February 16 letter means that the DOD has again copped out on a vital commitment. The offer of the auditors is no longer valid; and that means the DOD power to prosecute the A.T. & T. rate investigation has been emasculated.

This is another betrayal of the American consumer and taxpayer. The Secretary—or someone at that level must have ordered this abrupt change in policy, and again one can only conjecture where the pressure came from. The greatest threat to A.T. & T. were those 3,200 auditors going through their books. A.T. & T. knows that DOD has never audited its books because A.T. & T. has never allowed DOD to do it—despite the fact that it is one of the largest defense contractors.

A.T. & T. is hardly worried about FCC's auditors, whose numbers are minimal. A.T. & T.'s biggest fear is DOD. If DOD is no longer serious about the A.T. & T. investigation which it previously demanded, it had best straighten out what its plans are in detail for the coming months in the FCC.

You can be assured that I shall not let this travesty on the consumers and on the country go by without a continuing and in-depth investigation. I urge all public interest parties in the A.T. & T. case, and in all other cases where the Department of the Defense or the General Services Administration are involved to be on the alert. What last week we thought was our defender in the battle against utility rate increases has now turned to become perhaps our worst enemy.

I note and am sympathetic to the Price Commission's desire to improve procedures and policies without adding another layer of regulation. To attain that objective, immediate attention must be given to the present regulatory crisis.

During the past 10 days I have conducted five hearings, for the Senate Subcommittee on Intergovernmental Relations, at which Federal regulatory commission chairmen and former chairmen discussed their increasing workload, diminishing staff and funds and personnel reductions forced by the Office of Management and Budget. The situation among State commissions, which have even more regulatory responsibility and less staff, is much worse, as previous hearings by the subcommittee documented.

Mr. President, I ask unanimous consent that Mr. Wagner's letter dated February 16, 1972, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., February 16, 1972.

Hon. LEE METCALF,
U.S. Senate, Acting Chairman, Government Operations Committee, Subcommittee on Intergovernmental Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to my appearance before the Committee on Government Operations, Subcommittee on Intergovernmental Relations yesterday on S. 448 and to the article appearing on Page 1 of this mornings Washington Post reporting the hearing and indicating that the Department of Defense would supply the Federal Communications Commission all the auditors necessary for a full investigation of the expenses and investments of the American Telephone and Telegraph Company's charges for long distance interstate telephone service.

The thrust of my testimony under questioning by you and Committee Counsel Turner was that the Department of Defense in connection with its difficulties in obtaining access to American Telephone and Telegraph Company's records advised the Federal Communications Commission that the Department of Defense had the capability and was willing to conduct an audit of the Bell System under the auspices of the Federal Communications Commission. I also testified that this offer had not been withdrawn and was still outstanding to the Federal Communications Commission. Upon checking this morning, I found that I misspoke myself on this latter point. The Department of Defense no longer has auditors available to conduct an audit or investigation on behalf of other agencies. I further found that the Department of Defense does not currently even have the manpower available to do the job on a reimbursable basis, a procedure followed in assisting other departments or agencies under extenuating circumstances. I deeply regret that my information on this point has proven inaccurate.

Again I wish to take this opportunity to thank the Subcommittee on Intergovernmental Relations for the courtesies extended me during my appearance.

Sincerely yours,

CURTIS L. WAGNER, JR.,
Special Assistant to the Judge Advocate General and Chief, Regulatory Law Office.

Mr. SCOTT. Mr. President, would the Senator yield?

Mr. METCALF. I would be delighted to yield to my friend, the Senator from Pennsylvania.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. SCOTT. Mr. President, I have been asked by the leadership and all other Senators concerned to make a unanimous-consent request.

I ask unanimous consent that the order for the yeas and nays on the pending amendment be revoked.

The PRESIDING OFFICER. Is there objection? The Chair hears none. and it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent further that upon the completion of the time allowed for this amendment, the Senator from Hawaii (Mr. FONG) be recognized and in addition, that it be the pending business, with the understanding that if it is finished today we revert to the debate on section 901 and relevant matters pertaining to busing on Monday after the morning hour. If the Senator has not completed his amendment today, his amendment is to be laid aside and we still revert to section 901 and relevant matters on Monday.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. JAVITS. That would be the Senator's pending amendment.

Mr. SCOTT. Yes; we revert to the pending amendment of the Senator from New York (Mr. JAVITS) and the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

AMENDMENT NO. 933

Mr. FONG. Mr. President, I call up my amendment No. 933 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 547, lines 8 and 11, insert "the Trust Territory of the Pacific Islands," after "American Samoa," in each case.

On page 582, line 18, strike out the quotation marks and period at the end of such line.

On page 582, between lines 18 and 19, insert the following: "(9) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. FONG. Mr. President, this amendment, if adopted, would make the Trust Territory of the Pacific Islands eligible for grants and loans under the higher education facilities construction program, as codified under S. 659, the "Education Amendments of 1972."

At present, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam are included in the Higher Education Facilities Act. The Trust Territory is the only outlying area under U.S. administration not now eligible under the act for financial assistance for the construction of educational facilities.

There is at present only one community college in all of the trust territory, a vast geographical area in the Pacific covering roughly the size of the continental United States. The "campus" of the Community College of Micronesia is a crowded site on the edge of an elementary school on Ponape Island. All of the buildings, with the exception of one mod-

est structure, are surplus metal buildings transported from Eniwetok Atoll. "Dormitories," if they can be called such, are crowded and barely adequate.

Under its master plan, the college seeks a much-needed campus at another location on the same island. Federal funds under the Higher Education Facilities Act would assist the American-administered trust territory government to establish the new college.

The college is a 2-year institution specializing in elementary teacher education with a current enrollment of about 130 from all parts of the trust territory. An increasing number of teachers must be trained for the steadily rising population of 100,000 Micronesians. But beyond its present role of training elementary teachers, the college plans to offer courses in the liberal arts in order to become an accredited junior college. To offer such programs, the college must have a student body of at least 350; thus the need for expanded facilities.

My amendment would assist the Micronesian people to build an adequate community college. I urge its adoption.

Mr. President, I have discussed the amendment with the chairman of the committee. I understand he is willing to accept it.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I have studied the amendment of the Senator from Hawaii, and I find it acceptable. I commend the Senator for his efforts to assure that the higher education offered to the youngsters in the Trust Territory of the Pacific is of the finest order by including them under the provisions of the Higher Education Facilities Act. This amendment will aid the Community College of Micronesia in its effort to meet the needs of the students. It is a laudable aim, and the Senator is to be congratulated for offering the amendment.

I am delighted to be handed an amendment not concerned with busing. This major higher education bill, has all the attention of the United States, for whatever it is worth, centered on its busing aspect, while a major breakthrough in the field of higher education is not spoken of.

I thank the Senator, and I am glad to recommend that the amendment be accepted.

I yield back the rest of my time.

Mr. FONG. I thank the Senator. I yield back my time.

Mr. PELL. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I should like to address a question to the Chair. What is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 933 of the distinguished Senator from Hawaii (Mr. FONG).

Mr. SCOTT. I thank the Chair.

Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SCOTT. I ask unanimous consent that the time for the quorum be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, how much time remains to the two respective sides on the pending amendment?

The PRESIDING OFFICER. The Senator from Hawaii has 45 minutes remaining. The Senator from Rhode Island has 20 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that 10 minutes be yielded to the distinguished senior Senator from Massachusetts, the time to come from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDITIONS IN BANGLADESH

Mr. KENNEDY. Mr. President, just a week ago, I returned from a visit to Bangladesh. I traveled to this newest nation at the invitation of the government of Sheikh Mujibur Rahman. As chairman of the Judiciary Subcommittee on Refugees, the main purpose of my visit was to assess firsthand the immediate relief and rehabilitation needs of the Bengali people—especially the 10 million refugees returning from India to Bangladesh, and the millions of others displaced within the boundaries of their homeland.

To travel in Bangladesh today is to better understand the immensity of past tragedy, and to better comprehend the challenges which now face the Bengali people and those around the world who will help the people of Bangladesh to help themselves.

Tragedy and triumph are everywhere present. You see tragedy in the massive devastation of the countryside, in the broken lives of destroyed families, in the eyes of maimed children, in the whitened skeletons of mass graves, and in the faces of millions who must start life anew in the aftermath of a repression which created the most appalling tide of human misery in modern times.

You see triumph in the joy of a people relieved that a nightmare of fear and violence has come to an end, and in the hope of a people who have courageously won a victory for self-determination and democratic principle. Dacca University—a primary target in the early days of the repression—reopened its doors just 3 weeks ago. More than 10,000 students are registered. The vice chancellor and many of the students were among the refugees I visited in eastern India last August.

In devastated Kushtia town—some 90 miles northwest of Dacca near the Indian border—the rubble is being cleared. And even though the local resources are meagre and the food stocks very low, returning refugees have started to rebuild their shops and homes and lives. What is happening in Kushtia is fairly typical of what is happening all over Bangladesh. And if one doubts the remarkably fast and smooth return of the refugees, you need only visit the Salt Lake refugee camp outside Calcutta, which I did on the day following my visit to Bangladesh. Last August this largest camp in India was filled with a teeming mass of humanity—some 300,000 Bengali refugees. Last week, Salt Lake was a ghost town, with little more than 10,000 people remaining—and they were preparing to leave.

I spoke with an Indian priest who succeeded reasonably well in running a medical center during the refugee influx. But he spoke of how only a few months ago he thought that the refugees would never return. He spoke of the despair that he and the other voluntary agency personnel felt in trying to battle an unending tide of refugees, disease, and squalor. Last week, he was also preparing to leave. His work done. He was returning to his regular assignment with village health centers in rural India.

Mr. President, because I shall soon file a definitive report on the findings and recommendations of my field investigation, I shall not burden the RECORD with more lengthy comment at this time. But the urgency of immediate humanitarian needs in Bangladesh, and the policy of unconscionable silence which still governs the administration's attitude toward this new nation and all of South Asia, prompt me today to speak out in behalf of the Bengali people and the vast humanitarian needs which are so readily apparent in Dacca and the countryside of Bangladesh.

I am distressed that our national leadership persists in rationalizing the past policy of support for a shabby and shameful enterprise by a military regime—and all but ignores the appeals of Sheikh Mujib for international assistance in helping to feed and rehabilitate the refugees in Bangladesh. I am even more distressed that on February 2, representatives from the administration could appear before the Subcommittee on Refugees and put a cloak of normality on conditions in Bangladesh, and bluntly tell the Subcommittee that—

> Nothing—including America's failure to recognize Bangladesh—is standing in the way of the movement of relief supplies.

Well, they should go to Bangladesh. For I can say, Mr. President, their testimony runs counter to the facts in the field. Congress and the American people have been misled again.

After speaking with the Prime Minister and officials in his government—after speaking with countless representatives of the voluntary agencies, the Red Cross and the United Nations—and after speaking with the head of the American mission in Dacca and members of his

staff—there can be little doubt that our Government's failure to recognize Bangladesh is standing in the way of America's leadership and contribution to the emergency humanitarian needs of the Bengali people.

Lack of recognition is the main stumbling block, paralyzing the new allocation or shipment of U.S. relief supplies and funds to Bangladesh. It has made our consul general in Dacca an official leper, unable to represent the American people in humanitarian programs of the Bangladesh Government, the United Nations, and other international bodies. It has crippled the ability of American voluntary agencies in organizing relief projects, especially those involving the needed distribution of food commodities under the Public Law 480 program. And it has endangered the continued functioning of many valuable long-term U.S. humanitarian projects in Bangladesh, such as the Cholera Research Laboratory—one of the world's finest cholera control organizations—due to the absence of bilateral programs. Moreover, the United States has traditionally supplied the largest share of food imports into Bangladesh under bilateral Public Law 480 programs, generating local funds that have been used for a variety of essential humanitarian and developmental projects. Today, that program is suspended, waiting the day of recognition.

Three weeks ago, during the subcommittee hearing on February 2, administration witnesses said our Government was poised to help Bangladesh, but that our commitment was waiting an appeal from the United Nations. On February 16 that appeal was made by the Secretary General in behalf of the United Nations Relief Organization/Dacca. Today, 1 week later, there is nothing on the record to suggest we are responding.

On January 31, a similar appeal for relief aid—mainly for the Bihari and other minority communities—was made by the International Committee of Red Cross in Geneva. Today, some 3 weeks later, there has been no response.

On January 21, the United Nations High Commissioner for Refugees issued an appeal for additional assistance in repatriating the refugees in India. Today, more than a month later, there has been no response.

Why the delay, Mr. President? What does our country have to gain by waiting even 1 more day before responding to the international humanitarian appeals to help the refugees and the people of Bangladesh? What can the world think of an America, known for its humanitarian leadership, but standing immobilized before a massive people problem that grows worse each day with the approaching monsoon?

And what, Mr. President, does our Nation have to gain by delaying its recognition of the existence, as well as the humanitarian needs, of Bangladesh? For even if we respond today or tomorrow or next month to the international relief appeals for Bangladesh, the United States cannot resume its even more important tradition of bilateral assistance to the Bengali people if we do not recognize Bangladesh.

The time is long overdue for this administration to turn its priorities around in South Asia. Already we have heard, and the Congress has been informed, that the administration has given considerable thought and planning to resuming bilateral assistance to Pakistan. But what of the other nations of South Asia? What of Bangladesh whose needs are equally as great and even more pressing? What of India, which carried nearly singlehandedly a massive refugee burden created by the Pakistan military repression of last year? Why cannot this administration give the same sense of priority to the needs of all the peoples of South Asia? Are we to learn that our great Nation, with its long tradition of humanitarian service, will actually resume bilateral military assistance to Pakistan before it resumes bilateral food assistance to Bangladesh?

American policy in South Asia is in shambles. Recent actions and pronouncements from the administration suggest, however, that little is being done to change this. But it must change, Mr. President, if the administration is to remain true to America's traditions and ideals.

So let us begin anew in South Asia—let us start with Bangladesh. Let us recognize this new nation and the urgent humanitarian needs of its people.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided, as previously.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Massachusetts may be recognized for not to exceed 20 minutes and that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized for 20 minutes.

Mr. KENNEDY. Mr. President, I am dismayed that this Senate has moved to accept the provisions offered by the junior Senator from Michigan (Mr. GRIFFIN). The three principal features of that amendment have the effect of ending all federally supported efforts to end segregation in our Nation's public schools.

First, that amendment would interfere with the court's attempt to apply remedies required to end the effects of deliberately segregated school districts.

Unfortunately, this amendment has passed in a climate of tension that we have not seen for many years. It was passed in that climate because national leadership failed last summer. At a time when the Nation was beginning to focus its sights on truly difficult issues of how to achieve quality education for schoolchildren, the voice of the President was heard.

On August 3, he offered to adopt the traditional position of those opposed to end segregated education. In those four short paragraphs, the President did not once mention equal education. But he did say,

> I am against busing as that term is commonly used in school desegregation cases.

And to back that up, he pressed for, and obtained in the House, a prohibition against the use of funds in the emergency school aid bill for busing.

Not surprisingly, his stand was criticized by school administrators across the Nation who understood that the Nation was now going to turn back to the separate but equal doctrine.

They understood that the Supreme Court had spoken not once but a dozen times and each time it repeated its view that racial discrimination would be eliminated root and branch.

And they urged the President not to deny them Federal funds. They need those funds and they pleaded for those funds so that at the end of the bus ride the best possible educational program could be offered to all children, black or white, chicano or Chinese.

And so the great busing controversy is before us. But in fact, all of the amendments under debate and the symbolic attachment of both proponents and opponents demonstrate that it is not merely busing, nor education, that is being discussed.

What is being proposed is that the Nation turn its back on the past 18 years' experience in providing civil rights for black Americans.

I would urge the Senate to remember a few names and places of the past two decades:

In 1954, there was Brown against Board of Education.

In 1955, there was a woman in Montgomery, Ala., who refused to ride in the back of the bus.

There was Autherine Lucy in 1956 at the University of Alabama.

There was Little Rock, Ark., in 1957 and a President who demanded that the Constitution be upheld.

There were four young college students at a Woolworth's cafeteria in Greensboro, N.C., in 1960.

Then there was a bus in Anniston, Ala., and young men and women pulled from their seats. Fortunately, another President intervened to demand that the Constitution be upheld.

In 1963, there were the dogs of Bull Connor, a man in the doorway at Tuscaloosa, and the bombing of a church in Birmingham. And later there was the bridge at Selma.

Those were difficult, harrowing years for the Nation. But national leaders

spoke out firmly and set a model which a majority of the Nation's citizens responded to. And there were men of greatness, such as Dr. Martin Luther King, Jr., who helped carry the Nation forward.

There were results. There was the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Voting Rights Act of 1970.

And I firmly believe that what is being asked now in the issues before the Senate—to prohibit the busing of children to end the evil of segregation—is that we turn the clock backward.

What is being asked is that the Senate of the United States stand in the schoolhouse door to deny equal rights to its minority citizens.

And if we permit that to occur here, it will be difficult to ever put the genie back in the bottle.

Because no one can deny the truth of the words of former Chief Justice Earl Warren. He wrote in Brown against Board of Education;

> In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

Yet, the amendment which we have just passed seeks to straitjacket the judicial branch of our Government—to interfere with its duty to enforce constitutional rights.

What future erosion of the separation of powers and constitutional principles will tempt Congress tomorrow? Tampering with the Court's enforcement of the Constitution has always proven to be a Pandora's box.

Second, this provision affects the basic ability of school administrators to use the best possible methods for educating youngsters, and it clearly limits black children's access to a decent education. This provision is exceptionally biased and unfair. It will insure that whites may use any means necessary to obtain an adequate education—including busing. But it is a bold and calculated denial of those same resources to black Americans. The amendment would legislatively establish a barrier to adequate education for 10 million black children by limiting the authority and the capability of innovative school administrators in bringing comprehensive educational benefits within the reach of all children.

When we adopt measures which prohibit courts from issuing orders for feasible measures to end discrimination in the schools, then we would deny the basic right of equality and justice to black children. If black Americans cannot gain redress for discrimination in the courts, then where should they turn?

Those who find it expedient to turn their back on integration do not use the discredited phrase "separate but equal." But that is where they would lead us. Men who know better talk of equal opportunity, yet act as if they never heard of Brown against Board of Education. Brown was a landmark in America's struggle with its conscience. For almost 20 years, not a single Justice of the Supreme Court has dissented from the principle that deliberate racial separation inherently harms minority children and must be eliminated. In his 1970 education message to Congress President Nixon reaffirmed his belief that this decision was legally sound and morally correct.

Of course we must work to improve the quality of education in all schools. Obviously it is most important to upgrade substandard schools and to provide assistance according to a child's educational needs. But the choice proffered by pundits between "desegregation or compensation" is a false choice. We must proceed with both efforts if we are to remain a Nation under law—and if we are to become a society at peace with itself.

Those who are prepared, for whatever reason, to repudiate brown and retreat to a "separate but equal" solution should at least be honest with themselves and with the American people. And those who are preparing to stand in the schoolbus door should recall the tragic experience—written in tears and blood—when political leaders played on inflamed passions with talk of massive resistance and slurs on the courts. The same signals can be given with quiet code words, as well as redneck rhetoric.

The position is—that the provision offered by the Senator from Michigan, would clearly set back the fundamental goals of all civil rights legislation.

The second provision of the Senator's amendment is equally regressive. If a district under a desegregation order is denied Federal aid, then what is accomplished? Nothing, except to force cuts in the local education budgeted for whites and black children or to force higher taxes? Can there be a more illogical example of cutting off one's nose to spite one's face? What of the many communities that are quietly and successfully achieving integration on a voluntary basis. Should their initiative be denied Federal assistance?

The third and final provision of the amendment would postpone any court order requiring that school districts undo the damage caused by segregated schools. Apparently this provision is based on the assumption that busing is inherently bad. Moreover, it appears to be falsely based on an assumption that the courts have ordered busing in the past. But in fact, the courts are not imposing "massive busing to achieve racial balance," or to engage in "social experiments." These are misleading slogans. The real question is this: If the courts find officially maintained segregation, in violation of the Constitution, do we fix it or do we sweep it under the rug of a new ghetto schoolhouse and forget it? As Chief Justice Burger stated for a unanimous Court:

> The objective today remains to eliminate from the public schools all vestiges of State-imposed segregation. . . . Absent a constitutional violation that would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes.
>
> But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation.

When the rhetoric of forced busing is stripped away, what is still being said is "I do not want my children going to school with black children." And the effect of the amendment passed today would be to tell black Americans that there will be no further official Government efforts to end segregated schools.

If the abhorrence of busing were the issue it is made out to be, then why didn't many of the States welcome the order to desegregate, because it meant less busing, not more.

In Mississippi, in those districts which had achieved 12-percent desegregation as of 1968–69, the number of students bused was down 2,000 and the number of miles traveled was down 200,000.

In Tennessee, in the same category of districts, there were 20,000 less students bused and 2 million less miles than 4 years earlier.

In Georgia, total mileage was down 500,000 and despite a 90,000 hike in enrollment, the number of students who were bused was only up by 15,000.

In the South, where clearly the greatest amount of school desegregation has occurred, the proportion of children riding buses to school is less than 3 percent above the national average.

And it would be tragic if at this time, when the inequities that have existed in northern school districts are being forcefully attacked for the first time, that the Nation were to turn away from the requirement of equal opportunity for all.

HEW statistics demonstrate that the dual system exists in the North as well as the South. They show that, while 43.9 percent of the black students in the South now attend majority-white schools, only 27.8 percent of the black students in the North and the West attend such schools.

We now must recognize that there is a national problem which must be resolved, a problem which does not end at the Mason-Dixon line.

What is being asked by the courts and by the Constitution is that equal education opportunity be assured for all citizens, whether they live in Birmingham or in Boston.

And it should be emphasized that the courts have not demanded massive, unreasonable busing to achieve that end. The Swann decision is explicit in its statement that busing should not be required if it were to "either risk the health of the children or significantly impinge on the educational process."

Here is a forthright statement by the court designed to prevent whatever excesses have occurred in the past where courts or agencies have failed to act "reasonably."

But the answer to unreasonable actions by lower courts or executive agencies is found in the court decision and not in the proposed constitutional amendment nor in most of the amendments proposed to the bill at hand.

They raise the yellow school bus to the center of the controversy and seek to demonstrate that the schoolbus, regardless whether it merely is carrying children six blocks instead of three, 20 minutes instead of 5, should be halted if it is carrying children to end segregation.

It is fraud, pure and simple, on the American public to act as if there were

something evil and un-American about the school bus. It is as much a part of American education as the textbooks and blackboards and erasers.

And the truth is that for years, black and white students were bused out of their own neighborhoods to insure that black children were not educated in the same school as white children.

And for years, rural schoolchildren depended on school buses as the only means of transportation. It meant that the better facilities of a larger school in a centralized school district would be available to them.

And all that is being argued today is that at times black and white children will be riding buses to avoid segregated education and to bring them to a school where they can receive quality, integrated education.

Our concern and our attention should be focusing not on how they get to school but on how to make the process of learning when they enter the classroom rewarding, exciting and beneficial.

For the Nation, the ultimate end product of these years of trial must be quality integrated education for all of our children.

The counsel of Florida's Governor Askew merits our attention. He declared:

> The law demands, and rightly so, that we put an end to segregation in our society . . . we must demonstrate good faith in doing just that. We must demonstrate a greater willingness to initiate meaningful steps in this area. We must stop inviting by our own intransigence, devices which are repugnant to us.

The Governor has recognized, as we hopefully will also, that in those communities seeking to carry out voluntary integration plans and in those communities under court order to desegregate, busing is merely one tool among many, one which has been with us for generations.

We are a nation that has struggled mightily out of the decaying discrimination of the past and it would be tragic for us to slide back once more.

Mr. President, the effect of modern civil rights efforts has been to turn around deliberate racial segregation. And the members of the Senate have consistently supported those efforts because they embody the fundamentals of human justice. But, there is no way that we can explain the action of this Senate in that regard in light of the vote today that resulted in the adoption of a very regressive amendment. I am appalled that the Senate has voted to interfere with judicial procedures aimed at ending segregation in the school. For, the effect of the amendment offered by the junior Senator from Michigan may prevent courts from seeking a just remedy for proven cases of discrimination.

Further, I am dismayed that the results of the vote will permit Federal funds to continue flowing into the coffers of those school districts that deliberately deny adequate educational opportunities to children who are not white. That provision will authorize Federal funds to aid in continuing the barriers against the value of an optimum educational delivery system.

I can only hope that as the debate on this issue continues, the final action of the Senate will be to affirm our national goal of justice and equality for all citizens.

Mr. President, I suggest the absence of a quorum, with the time for the quorum call to be divided equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF A BILL

Mr. JAVITS. Mr. President, I have had pending on the desk since last year S. 2962, a bill to amend the Manpower Development and Training Act of 1962 to provide financial assistance for a special manpower training and employment program for criminal offenders and for persons charged with crimes, and for other purposes, which is subject to referral. I should like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. If the bill is referred sequentially to the Committee on Labor and Public Welfare and to the Committee on the Judiciary, does that mean that it will move from the Committee on Labor and Public Welfare to the Committee on the Judiciary and then will not move to the floor until it leaves the Committee on the Judiciary?

The PRESIDING OFFICER (Mr. BEALL). The Senator is correct.

Mr. JAVITS. Having cleared this procedure with the chairman of the committee, the ranking minority member, and the chairman of the appropriate subcommittee, I ask unanimous consent for that reference for S. 2962.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, with the understanding that the recess not extend beyond 5:30 p.m. today.

The motion was agreed to; and at 5:02 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 5:18 p.m. when called to order by the Presiding Officer (Mr. CHILES).

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator from Rhode Island yield me not to exceed 5 minutes?

Mr. PELL. Mr. President, I yield such time as he desires to the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, after some 3 hours of discussion, a number of us have come up with something which we would like to call to the attention of the Senate at this time.

I ask unanimous consent that the pending Allen amendment and all amendments now pending to section 901 have action deferred thereon until the further consideration of S. 659 on Tuesday next and that upon the further consideration of S. 659 on Tuesday next, the time on any further amendments be limited to 30 minutes, the time to be equally divided and controlled as presently prescribed by the present consent agreement; and provided further that during the further consideration of this measure on Monday next only amendments not dealing with the desegregation of schools or the transportation of pupils to schools on the basis of race, religion, color, or national origin will be in order on that day, and that time on all amendments considered on Monday to any section of the committee substitute will be limited to 60 minutes, the time to be equally divided and controlled as previously described; and further that the Senator from Tennessee (Mr. BAKER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Florida (Mr. CHILES) and the Senator from Georgia (Mr. GAMBRELL) shall have the opportunity on or after Tuesday to offer an amendment on any matter to any section of the committee substitute, with the time on the Fulbright amendment being limited to 2 hours and the time on the

Chiles, Gambrell, and Baker amendments to 40 minutes, the time equally controlled and divided as previously prescribed and further that a motion to table shall be applicable to all amendments; and provided further that nothing shall foreclose amendments to any section of the committee substitute at any time on or after Tuesday; and provided further that at 12 o'clock noon on Tuesday next, if the pending Allen amendment and all the other amendments now pending thereto and to section 901 have not been disposed of, then the Senate shall proceed immediately to a vote on these amendments without any other intervening perfecting or substitute amendments to the Allen amendment or the language to be stricken thereby, and further, that prior to the final vote on the disposition of section 901 a further period of debate of 30 minutes be made available with the time divided and controlled as previously prescribed and provided further that the previous agreement remains in effect except as modified herein.

The PRESIDING OFFICER (Mr. SYMINGTON). Is there objection?

Mr. ALLOTT. Mr. President, reserving the right to object, and I shall not object, I would like to ask the majority leader a question with respect to the timing of this vote. He is aware, of course, that the timing of the vote at noon on Tuesday comes just prior to the meeting of the Policy Committee at 12:30 p.m. I would like some assurance that we would have the time at least from 12:30 until 1:30 for that meeting.

Mr. MANSFIELD. Mr. President, I realize the situation in which the distinguished acting Republican leader finds himself. As one of the Republican leaders, he, of course, has been quite consistent in this particular matter which he has called to the attention of the Senate. But may I ask personally on this occasion, as I did on another matter a few days ago, because of the importance of the bill before us, and because of the fact that there will be votes on that day, that he would give us the benefit of the doubt on this occasion, especially in view of the fact that the luncheon which the Republican Conference has every Tuesday will be only a matter of a few feet away from the floor.

As the Senator is aware, we have a great deal more to consider in the way of legislation. This is a most pressing national problem. The interest in it is great, and I would hope that he would find in his heart the opportunity to allow us, as an exception this time, to consider this matter on the basis outlined, after 3 hours of conference and negotiations.

Mr. ALLOTT. Mr. President, reserving the right to object, I did yield to the overwhelming persuasiveness of the majority leader the other day on another matter. I would simply like to point out that this is a request not made for the Senator from Colorado.

Mr. MANSFIELD. I understand exactly; on instructions.

Mr. ALLOTT. I am not even acting on instructions at the moment. I am acting in behalf of the entire Republican membership of the Senate. It is the one time, the one occasion each week when we do meet for the transaction of business, and I really must say, with all deference, that it does not seem to me that requesting that 1 hour be kept free, not for the Senator from Colorado or for any other individual Senator, but for the sake of the entire minority in the Senate, is really not too much of a request or concession to ask for.

Mr. MANSFIELD. If the Senator will yield further, a number of Republicans, a goodly number of Republicans, were in on this discussion. What I have proposed met with their approval. It is a small matter, for it really will not, in my opinion, inconvenience too much the Republican Senators; and I would again express the hope that the Senator, because of the overriding importance of this question, would give us another lease on life, so to speak, on this occasion.

I assure the Senator, so far as I am concerned, whenever possible, and that is almost always, the majority leader has raised matters so that discussions, debates, and votes would not interfere with the luncheon of the Republican Policy Committee.

We will be as charitable—if that is the word—on each occasion as we can be.

Mr. ALLOTT. Mr. President, I do not think we particularly want charity. I hope the Senator is using "charity" in the original meaning which it had in the Bible, which is love and affection.

Mr. MANSFIELD. It is, and also on a time basis.

Mr. ALLOTT. But with the assurance that every effort will be made as far as possible to permit the meeting to go on. We cannot get the luncheon area on other days of the week at this late time and there are other schedules we cannot avoid. We will go upon his assurances this time.

But I must say while the distinguished majority leader has been very cooperative, in the past there have also been times when I think unnecessarily others who might not have been conscious of things going on, have taken this time to set particular matters for voters, and it is my intention as chairman of the Republican Policy Committee to continue to hold these meetings at 12:30 on Tuesday and have all Republican Members of the Senate present. I would hope that would be borne in mind under the charity which the Senator bears to all of us, using "charity" in its original biblical sense again.

Mr. MANSFIELD. Mr. President, that will be kept in mind and we will do our very best to cooperate. I thank the Senator.

The PRESIDING OFFICER. Is there further objection? Without objection, the unanimous-consent request is agreed to.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii (Mr. FONG).

Mr. PELL. Mr. President, as manager of the bill, I have been convinced of the merit of the amendment of the Senator from Hawaii and have already released my time. I think, actually, no time remains. I would suggest that the question be put.

The PRESIDING OFFICER (Mr. CHILES). The question is on agreeing to the amendments of the Senator from Hawaii en bloc.

The amendments were agreed to en bloc.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, is there any time remaining on that amendment?

The PRESIDING OFFICER. All time has been yielded back.

Mr. JAVITS. By whom? I have not yielded back any time.

The PRESIDING OFFICER. On that amendment.

Mr. JAVITS. Mr. President, to regularize the matter, I am prepared to accept for that amendment whatever is the time limitation on Tuesday. As that amendment goes to the merits, I will withdraw it at this time. In order not to leave the RECORD absolutely blank overnight, I would like it understood, or make whatever request the Chair might suggest, that that amendment carry the new time limitation of 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further consideration of the amendment by the Senator from New York (Mr. JAVITS) be postponed until Tuesday next.

Mr. JAVITS. Under the unanimous-consent agreement.

Mr. BYRD of West Virginia. Yes, and that time for the remainder of this day may be yielded from time on the bill to any Senator for general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TALMADGE AND SENATOR THURMOND ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, following the remarks of the distinguished minority leader, the distinguished Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 15 minutes, to be followed by the distinguished Senator from South Carolina (Mr. THURMOND) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY NEXT AT 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until 9:30 a.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

S. 635 MINERAL RESOURCES RESEARCH

Mr. MOSS. Mr. President, of the domestic problems that beset us, none can be more pressing than finding the way to obtain the necessary energy producing natural resources of this country and at the same time to protect and preserve our land's natural beauty and usefulness. My Subcommittee on Minerals, Materials, and Fuels has spent endless hours in examination of the surface mining problems. Much research is needed into mining methods, and processes, methods of handling excavation and overburden, reclamation of spoil, its handling and site grading, erosion control and protection of water quality.

In July of last year the Senate passed S. 635, which authorizes matching support for one institution in each State for research directed to mined-land reclamation, underground reservoir utilization, mineral economics, related environmental matters, and the training of an adequate supply of scientists, engineers, and technicians in such fields.

From the field trips and the hearings which have been held by my committee, I recognize that nothing could be of more importance to the people trying to resolve the problems of surface mining in our States than to have all the technology available on a State-by-State basis which S. 635 could provide.

The States themselves are pleading for assistance in these matters and the problems of each State are unique to those States.

Much progress has been made in solving surface mining problems, but a better job must be done and innovations found through research. Strip mine reclamation is a relatively new art and for this reason alone there is a great need for education and training of the people involved. Research and training would help the operators and the regulatory agencies in all phases; from planning prior to mining to postmining reclamation. Variations in site requirements even within a State and over short distances make it imperative that our efforts should go to assisting each State in developing appropriate research centers.

We now have a situation before us in which the Senate has passed two bills, S. 635, above discussed, and S. 659, the higher education bill, both of which contain provisions in conflict with each other and having to do with establishing research centers. S. 659, when it passed the Senate, did not contain any such provisions, but in conference, provisions were added establishing 10 regional mineral institutes and authorizing financial support therefor.

For the reasons already indicated, I think it is imperative that the Senate conferees require the deletion of the provisions added to S. 659 in conference to set up 10 regional centers. I urge their adherence to the provisions of S. 635 as passed by the Senate in July of last year.

In my own State, the University of Utah College of Mines & Mineral Industries stands ready to play an important role in meeting the great challenge facing the mineral resource industries in the coming years. The efficient utilization of natural resources, and the proper control of geological hazards are measures within the purview of a specific State, and the Congress can be of great assistance through passage of S. 635.

My colleagues who serve with me on the Committee on Interior and Insular Affairs are well aware of the problem which I have here raised and I expect will have something to say about it. It is a question where the Senate must stand firm for the bill we have already passed.

TITLE X OF S. 659 AND S. 635

Mr. ALLOTT. Mr. President, I wish to bring to the attention of the Senate and the conferees to be appointed, a matter which will be before the conference to be held on the higher education bill, S. 659.

I wish to commend the Senator from Utah on his remarks, with which I am sure all of us on the Interior and Insular Affairs Committee agree, at least so far as I know, about a matter which has come up and will come up on the Higher Education Act, S. 659.

The House-passed version contains provisions relative to the establishment of regional mineral institutes. However, Senators will recall that on July 19, 1971, the Senate passed a measure dealing with the subject, S. 635. That bill has been referred to the House Committee on Interior and Insular Affairs, and hearings were held on November 11, 1971. Subsequent to those hearings the Subcommittee on Mines and Mining reported S. 635 and other companion measures to the full House Interior Committee. It is my understanding that the House Interior Committee intends to act upon the bill or one of the companion measures, H.R. 6788 or H.R. 10950, at its March 1 executive session.

At this point, I should like to point out that there is some confusion with respect to the number of the title in the House-passed version of S. 659, amendments to the Higher Education Act, which relates to the establishment of mineral institutes. During the House floor debate on the bill, it was title XI, and in hearings before the House Committee on Interior and Insular Affairs it was referred to as title XI. However, according to the February 3, 1972, Senate committee print the mineral institutes title is shown as title X on page 338 of that print. It remains somewhat of a mystery as to how the title number was changed from XI to X as the bill moved from the House and the Senate. Later, I intend to insert in the RECORD a letter from the chairman of the House Committee on Education and Labor. In that letter he identifies the title relating to mineral institutes or mineral education as title XI.

I have taken the time of the Senate for this explanation in an effort to reduce the confusion. In the remainder of my statement I shall refer to title X of S. 659, which conforms with the Senate committee print; however, some of the materials I shall insert in the RECORD will refer to title XI. The point is that all references to "title X" and "title XI" in connection with mineral institutes are references to the same title.

Mr. President, it should be noted that a favorable report from the Department of the Interior has been received relating to the companion House measures, which, according to the report "also applies to S. 635, which has a similar purpose." The departmental report suggested certain minor amendments but supported the general thrust and substance of the bill.

The House Education and Labor Committee did not hold hearings on title X nor did it request or receive departmental reports on title X. On the other hand, at the Senate hearings on S. 635, oral statements were received from 25 witnesses and numerous other communications were received. These statements came from a broad cross-section of college deans, professors, and leaders of industry, and all were favorable. And as I stated before, the administration favors the bill.

Mr. President, in order to complete the record, I ask unanimous consent that the report of the Department of the Interior, dated November 11, 1971, and the statement of the Assistant Secretary of the Interior, Hollis M. Dole, before the House Interior Committee, be printed in the RECORD at this point.

There being no objection, the report and statement were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 11, 1971.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for this Department's comments on H.R. 6788 and H.R. 10950, identical bills "To establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the Act of December 31, 1970, and/or other purposes." It also applies to S. 635, which has a similar purpose.

We recommend that H.R. 6788 or H.R. 10950 be enacted if amended as discussed below.

The declared purpose of H.R. 6788 and H.R. 10950 is to stimulate research and training of engineers and scientists in the fields of mining, mineral resources, and technology.

Title I would authorize to be appropriated annually to the Secretary of the Interior $500,000 to assist on a matching basis each participating State to establish and maintain a mining and mineral resources research institute.

It also authorizes $5 million to be appropriated in each of the fiscal years 72–76 inclusive for grants to the institutes for specific research and demonstration projects of industry-wide application which could not otherwise be undertaken.

Title II authorizes to be appropriated $10 million in FY 1972 (increasing by $2 million each of the next 5 years and continuing at $20 million annually thereafter) for grants or contracts to educational institutions, private foundations, Federal, State or local government agencies to undertake research into any aspects of mining and mineral resources problems not otherwise being studied.

S. 635 is similar in its approach, authorizing two basic Federal programs:

(1) matching categorical grants of up to $100,000 in FY 1972 (increasing by $50,000 annually up to $250,000) to support a minerals research and training center in each State.

(2) $1 million in FY 1972 (increasing by $1 million annually up to $5 million) for special mineral resource research projects.

In addition S. 635 authorizes $5 million to purchase equipment facilities and library materials and $1 million annually for administrative expenses and for printing and publishing the results of the research.

The prosperity and future welfare of this Nation depend upon its non-renewable mineral resources much as they do upon its renewable agricultural resources. In the case of the latter, Federal and matching State funds have continually supported education and research on agricultural resources at a university in each State since the first Hatch Act of 1887. As a result, significant progress has been made in fields such as watershed, crop, and wildlife management. The Federal Government has also supported research and training programs at many universities in a variety of other important fields such as water quality, forestry management, and marine resources which promote the national interest through the supply of new technologists and technology. In the case of our mineral resources, we have lacked such foresight. Domestic production of essential materials has fallen with a commensurate increase in dependence upon foreign sources. During the decade of the sixties, the net value of mineral imports over exports tripled. This has occurred partially as a result of the neglect that we have shown to research in the field of mineral resources and related areas.

The seriousness of the situation can be evaluated only when considered in conjunction with projected future demands for mineral raw materials. The United States is the largest single consumer of minerals and fuels in the world. With only 6 percent of the world population, the United States consumes between 30 and 40 percent of world mineral production. In fact, during the past 30 years, this Nation has consumed more mineral raw materials than the entire world in all previous time. Furthermore, projections based on population growth indicate that by 1985 the total mineral requirements of the United States will increase by about 50 percent; for some commodities, requirements will double. The growing needs of the rest of the world will be even more dramatic as the standard of livng in developing countries increases at an accelerated rate. The competiton for available mineral materials will become significantly more intense.

More alarming than the rapid depletion of domestic mineral reserves is the decline in the development of the mineral technology needed for their profitable production and processing. The major conclusion of a recent study on mineral science and technology conducted by The National Academy of Sciences, The National Academy of Engineering, and The National Research Council, was that "despite the key role of minerals in our society, the vastly increasing worldwide demand for mineral products, mineral technology in the United States is in a declining state, and serious trouble lies ahead for the country unless corrective actions are taken promptly." The extent to which traditonal domestic sources can fulfill increasing and changing demands for minerals and fuels will be determined by the size and scope of the investment in minerals research and the abilty to develop innovative mineral extraction technology.

As our mineral resources problems have increased in severity, the number of mining departments in our universities has decreased. Mining departments decreased from 26 to 15 in the 7-year period 1962–69. Yet, departments in colleges of agriculture, such as horticulture and agronomy, continue to carry on strong programs, largely by virtue of continuing Federal and State financial support.

An additional factor affecting the need for strong educational programs in the minerals sciences is the Nation's vital concern for the quality of our environment. This concern has three facets as it relates to the minerals industry: mine health and safety, protection of the environment from the adverse effects of mining operations, and the assurance of an adequate, dependable supply of minerals and fuels. All of these facets are high priorities in the Nixon Administration. All require large numbers of trained personnel, both to administer Federal and State regulatory programs and to develop and implement the technology necessary to solve the problems.

We support, therefore, the objectives of these three bills. We recommend, however, some amendments to H.R. 6788.

We feel that it will be unlikely that all fifty States will be willing to provide matching funds to establish or maintain a minerals resources research institute. Nor do we believe that the national priorities require an institute in each State. Therefore, we recommend that the authorization for matching grants should be stated as a fixed annual sum to be allocated by the Secretary of the Interior. We recommend that this sum start at $2 million and increase by $2 million annually until it reaches $10 million, continuing at that level thereafter. We also recommend a limit on the amount that any one institute can receive of $500,000 and a provision that only one institute per State receive such matching grants. This would provide flexbility to permit the Secretary to allocate the funds where they can best meet the Nation's needs.

To accomplish this we would:

(1) amend lines 15–16, page 2 to read: "not more than $2 million increasing by $2 million annually to a level of $10 million and continuing at that level thereafter to assist in establishing";

(2) amend line 20, page 2 to read: "at colleges or universities selected by the Secretary on the basis of the criteria contained in subsection (b)";

(3) striking lines 20, page 2 through "concerned" on line 2, page 3;

(4) amend the second proviso (beginning in line 5, page 3) to read "no more than one college or university may be selected in any State";

(5) amend the third proviso (beginning in line 14, page 3) to read: "no institution shall receive more than $500,000 under this section";

(6) delete "within the State" in line 20, page 3;

(7) add a fifth proviso at the end of line 21, page 3 as follows: "and (5) Federal grants under this section shall be for research project purposes";

(8) amend lines 22–24, page 3 to read: "(b) In selecting institutes for grants under this section the Secretary of the Interior shall consider the ability of the institute to con-"; and

(9) add after "experiments" in line 1, page 4 "on mineral resource problems having industry wide application."

With respect to the authorization for special research and demonstration projects in section 101 and the more general contract and grant authority in title II, this Department already has broad enough authority to accomplish these objectives. Accordingly, we recommend that section 101 and all of title II be deleted.

In section 102 we recommend, for clarification, changing "States" in line 23, page 5 to "institutes" and striking "to their designated institutes" in lines 24 and 25, page 5. We also recommend striking all of that section following the semicolon in line 14, page 6, since we feel that this administrative detail is more appropriately covered by regulations. The semicolon in line 14 should be changed to a period.

A final amendment to section 102 is the deletion of the sentence "The Secretary may designate a certain proportion of the funds authorized by section 100 of this Act for scholarships, graduate fellowships and post doctoral fellowships." and the words "to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures." To the extent that these types of student grants are research project oriented they would fall under the general authority of section 100. To the extent they are not research project oriented, we do not consider them an appropriate expenditure of Federal funds under this program. To conform to the above an "s" should be added to "assure" in line 9, page 6.

The second paragraph of section 104 should, we feel, be deleted as containing unnecessary administrative detail best left to regulation. For the same reason we would revise the third paragraph of that section to read simply:

"The Secretary shall report annually to the Congress on activities under this Act."

We would add the following sentence to the first paragraph of section 104 which is self-explanatory:

"The Secretary is determining the qualifications of each institute and the amount of assistance to be accorded to it is authorized to seek the advice of the National Academy of Engineers or some similar independent professional organization concerned with the fields of mineral science or engineering."

Title II of H.R. 6788 and H.R. 10950 contains miscellaneous provisions most of which we feel are better covered in regulations. Sections 300, 301, 304, and 305, contain assurances against duplication of research, duplicates a function now being performed by the Smithsonian Institution and the Department of Commerce. In addition the administrative procedures prescribed are in many cases already in effect. Accordingly, we recommend that sections 300, 301, 304, and 305 be deleted.

Section 303 deals with the free public access to information resulting from activity financed under this Act and it is unnecessary in view of the fact that the President has enunciated a comprehensive policy, binding all Federal agencies which accomplishes the same objectives as section 303. Therefore we recommend that section 303 be deleted.

Section 306 requires the appointment of an advisory committee composed of certain designated persons. We recommend that this committee be optional and that its memberships be chosen by the Secretary. We therefore recommend that section 306 be amended to read:

"The Secretary of the Interior may appoint an Advisory Committee on Mining and Minerals Resources Research to advise him in carrying out his responsibilities under this Act."

Finally, we recommend an additional section as follows:

"There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to administer the provisions of this Act."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

STATEMENT OF HON. HOLLIS M. DOLE, ASSISTANT SECRETARY, MINERAL RESOURCES, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON MINES AND MINING OF THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE, NOVEMBER 11, 1971

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to

appear before you today to discuss proposed legislation—including H.R. 6788, H.R. 10950, and S. 635 that has already passed the Senate—which authorizes Federal financing of minerals research and education at universities and colleges in the several States.

The Department of the Interior strongly supports the objectives of these legislative proposals. All are welcome efforts to solve the difficult problems posed by the decline in minerals education and research. However, our preference is for H.R. 6788 (which is identical to H.R. 10950) with the amendments that have been suggested in our letter to the Committee.

The United States faces three fundamental and interrelated problems with regard to its mineral requirements. The first is that these requirements are large and growing rapidly. We are six percent of the world's people and we consume one third of its minerals. Per capita, our consumption of mineral resources is five times the world average, and several multiples above that of the developing nations.

Between now and the year 2000, our consumption of primary minerals is expected to increase four fold. Demands for certain metals, such as aluminum and titanium are expected to increase six fold. Demand for energy will triple. This means, among other things, that over the next thirty years we shall need seven billion tons of iron ore, more than a billion tons of aluminum ore, a billion tons of phosphate rock, 100 million tons of copper, 250 million barrels of oil, and 100 trillion cubic feet of gas—assuming that we can obtain it.

Although these are projections, and subject to the vagaries of future events, it is clear that they involve quantities of imposing magnitude. And they immediately raise the question as to how our mineral industries and our Nation can provide these unprecedented quantities of minerals that are basic to our society and to national security.

The Nation is currently ill-prepared to meet this challenge. The drain on our richest natural resources has been severe. The most accessible minerals and fuels have been consumed at an accelerating rate to meet demands of armed conflict, cold war, and better living conditions for an expanding population. The burgeoning pressures have made the United States increasingly dependent on foreign supplies of essential minerals.

The second fundamental problem—on which the first is largely based—is our failure to advance domestic mineral technology at a fast enough rate.

The United States is not running out of mineral resources in the sense that domestic supplies will become completely exhausted. This never happens. But every analysis indicates that we are grossly neglecting the mineral technology needed for their economical production and processing in the face of widening world competition. The seriousness of this critical situation is emphasized in the major conclusion of the recent study on mineral science and technology conducted by the National Academy of Sciences, the National Academy of Engineering, and the National Research Council, entitled *Minerals Science and Technology; Needs, Challenges and Opportunities.* The report warns that "despite the key role of minerals in our society, and the vastly increasing worldwide demand for mineral products, mineral technology in the United States is in a declining state, and serious trouble lies ahead for the country unless corrective actions are taken promptly."

The United States was once a leader in mineral technology, but since World War II industrial research and development have lagged to the point where the U.S. industry has produced few new minerals recovery processes and techniques, and has turned to other countries for ideas and processes. By way of example, foreign developments have included basic oxygen steelmaking, flash smelting of copper sulfide concentrates, the zinc-lead blast furnace, continuous refining of crude lead, the hydrocycline for separating fine mineral particles from fluids, autogenous grinding, and electroslag melting for producing high quality alloy steels. The technology for these processes has come from such nations as Germany, Austria, Sweden, Canada, Finland, the Soviet Union, Holland and Britain.

The lag of minerals technology is further evidenced by the fact that many of our present minerals recovery techniques are relics of the past and are still being used today with only minor modifications. The cyanide and amalgam processes for recovering gold date from the last century; flotation techniques for concentrating minerals are nearly 60 years old; the original patents for the processes used to produce aluminum were issued in the 1870's. It is generally recognized that the Nation is not finding conventional petroleum reserves to keep pace with growing demand, yet we are a good ten years behind where we should be in the technology for producing synthetic liquid and gaseous fuels from alternate sources such as coal, oil shale, and tar sands. Automation has been introduced into coal mining without the necessary complementary training and technology for improving the health and safety of the miners.

Only through the use of imported processes and with the economies of size—mostly the product of aggressive equipment manufacturers—has the U.S. minerals industry survived. Each year, however, domestic production has supplied a decreasing proportion of the minerals required by the U.S. economy.

Technologic change and development, energetically applied, is a powerful force that can be exerted to improve the competitive position of the U.S. minerals production industry. The extent to which domestic sources can fulfill increasing and changing demands for minerals and fuels will be determined by the size and scope of the investment in minerals research and development including mined land reclamation and other environmental challenges, and to the extent that new innovative, and economic techniques can be developed.

This brings me to the third fundamental problem—to which these bills are more directly addressed—the problem of technical manpower.

Technologic advance is the daughter of research, and for a dynamic research program it is necessary to have an adequate number of competent, trained people.

Awareness of the dearth of people trained in the mineral fields that are available to the minerals industry has been reflected by numerous articles in the technical press. In the previously mentioned National Academy of Sciences report, which reviews and documents this urgent situation, it is pointed out that the whole broad area of minerals science and engineering has been woefully undersupported during the last 15 to 17 years when other scientific fields have experienced a growth of unequaled proportions. During this time no significant action has been taken by industry, the States, or the Federal Government. As a result, the number of mining schools has decreased from 36 to 17 in only 10 years, and during the same period the number of mining engineers graduated annually has dropped from 239 in 1960 to a low of 114 this past year. Twenty years ago nearly 500 mining engineers were produced each year. Similar trends hold for petroleum engineers, extractive metallurgists, and geological engineers.

We view the developments I have just described with deep concern. During the 1950's American universities and colleges graduated approximately 2,000 mineral specialists each year. During 1967 only 1,350 minerals specialists were graduated. If this trend continues, fewer than 1,000 specialists will be graduated in 1985.

Approximately 70,000 mineral specialists were employed in the United States during 1967. Thus, only one new specialist was trained for every 50 that were employed. Obviously this ratio is too low to maintain the present technical labor force. Between now and 1985, over 40,000 persons trained in minerals science and technology would have to be available to the labor market in order to sustain this technical labor force at the current level. However, based on present trends, fewer than 20,000 new mineral specialists will be trained.

In examining these problems, one is inevitably led to the conclusion that we have a great challenge before us. How do we solve these problems that I have discussed? If this is a Federal responsibility—and it is certainly a Federal concern—what type of program is likely to be most successful?

The Federal Government currently supports research and training programs at universities in many fields such as agriculture, water quality, forestry management, marine resources, and the health sciences. We believe that this support has paid handsome dividends in terms of technologic development. It is, therefore, altogether appropriate that similar support—such as proposed in H.R. 6788—be extended to the minerals schools.

Mr. Chairman, this concludes my prepared statement, and we shall be pleased to answer any questions you or the other Committee Members wish to address to us. I want to note before closing, however, that we are deeply grateful and appreciative of the interest shown by the sponsors of the three bills under discussion at this meeting. We all have a common concern—which is how best to restore our minerals technology and education to the sound footing which is critical to our national strength and growth. We have taken different approaches to the solution of some of the problems involved. I am sure that resolution of these differences can be effected, and to this end the Department of the Interior recommends favorable consideration of H.R. 6788 or H.R. 10950 with the amendments that we have proposed.

Mr. ALLOTT. Mr. President, there are significant differences between the approach of title X of the House-passed version of the higher education bill, S. 659, and the Senate-passed mineral institute bill, S. 635, which is an amendment to the National Mining and Minerals Policy Act of 1970.

I shall not dwell on the recognized need for mineral institutes, since both the House and the Senate have acknowledged the need by passing legislation dealing with the subject.

Title X of S. 659 provides for only 10 institutes, and the program is administered by the Commissioner of Education.

By contrast, S. 635 authorizes matching support for one institute in each State, and provides for administration of the program by the Secretary of the Interior. The Senate Interior Committee recognized that some elements of the research program authorized in section 3 of S. 635 would have application in every State, while a substantial part of the research contemplated under this program may have application in many regions, much of the research will have a local application, dealing with problems unique to a particular area or State.

Title X fails to recognize the diversity of problems based upon topography, geology, climate, degree of industrialization, concentration of population, and many other factors between the States, and the need for a local institute to direct its research efforts to find answers to those local problems.

It is true that some of those research results may have application in other localities. S. 635 provides for the publica-

tion and dissemination of research results to interested parties, both Government and non-Government. It is important that those who need to know about research results receive the information as soon as possible so that new data, findings, and processes can be applied at an early date. Under section 9 of S. 635 the Secretary of the Interior, who has broad responsibilities with respect to natural resources, is made the focal point of the research conducted under the program, and as such acts as a central clearinghouse and coordinator for research results.

Title X of S. 659, as passed by the House, provides for no such clearinghouse for research results nor does it provide for coordination of research. Under its provisions, the Secretary is granted 30 days to review applications for grants and to make recommendations. In other words, the research is conducted on a helter-skelter basis, uncoordinated with research conducted at other institutes, which may or may not have relevance to urgent mining or environmental problems, and which may be wastefully duplicative.

Certainly, the Congress should not enact two measures which purportedly achieve similar purposes in the same session. That would compound duplication.

Mr. President, I ask unanimous consent that pages 27 through 29 of the House Interior Committee hearings on S. 635 and similar House bills—H.R. 6788 and H.R. 10950—be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Mr. EDMONDSON. I understand the chairman wants to make a statement.

Mr. ASPINALL. Thank you very much, Mr. Chairman.

As we start our hearings this morning on these bills to which you have made reference. I believe that the record should reflect the recent developments which have taken place in connection with this particular legislation.

Last week the House passed the Higher Education Act including title XI, which does substantially the same thing as the legislation we have before us today. Major differences between title XI of the House-passed bill and the legislation that we are considering in the bills referred to are as follows:

1. Responsibility for administration, and

2. The number of research and training institutes established.

Title XI would be administered by the Commissioner of Education in the Department of Health, Education, and Welfare, while the legislation we are considering would be administered by the Secretary of the Interior.

Title XI would establish a maximum of 10 research and training institutes, whereas our legislation would provide for an institute in each State and in Puerto Rico.

The purposes and objectives of title XI and our legislation are substantially the same, the purpose of both being to support, enhance, and stimulate mining and mineral research and to assist the training of scientists and engineers in the mining and mineral field.

May I say that it would be the intention of course, to bring these operations up to date, keeping in mind the value of protecting the environment and the ecology, as well as taking the resources from the earth. During the consideration of the Higher Education Act last week, the chairman of this committee, Mr. Edmondson, made a point of order against title XI on the ground that the subject matter of the title was under the jurisdiction of the Committee on Interior and Insular Affairs.

However, regardless of the fact that he made a very fine presentation, his point of order was overruled. Thus, today we find ourselves in a rather awkward situation. We have the Senate-passed bill, S. 635, and two which are the subject of these hearings while House bills pending before our committee the House has already passed legislation to accomplish substantially the same purpose.

Obviously, it would not be appropriate for both title XI and our legislation to be enacted by the same Congress, and I may advise my colleagues that there is a question at this time as to what the conference committee will do.

The Senate-passed bill, of course, does not carry the legislation referred to and the Senate, as I understand, is in a quandary as to how they are going to proceed in the conference report. There is a good possibility that they may ask for title XI to be stricken and that they will stand on that position.

Therefore, Mr. Chairman, while I agree that we should go ahead with this hearing and get into the record the administration's position on the legislation and insert the various statements that have been presented to us, I believe that we should not proceed with the markup of the legislation until we know what is going to happen to title XI of the Higher Education Act, but rather that we should send our record after today's hearing, together with the bills and the proposed amendments, to the full committee so that if the legislation is not contained in the final conference report and approved by both Houses, we will be ready to move immediately and take jurisdiction on what we have thought—and which I still think—we should have jurisdiction over in the legislative process.

Mr. EDMONDSON. I appreciate the chairman's statement and concur wholeheartedly with the questions as to the strategy to be followed by the committee.

I yield to the gentleman from Pennsylvania, the ranking minority member of the committee.

Mr. SAYLOR. Mr. Chairman and members of the committee, while in principle I agree with the general statement that the chairman has made, there are several points on which I disagree.

First, I agree that this committee does have jurisdiction. I think that the parliamentarian erred in not sustaining the point of order that was made by Mr. Edmondson against inclusion of this section in the higher education bill. But I do not believe that we should merely sit idly by and leave this bill in limbo.

Very frankly, for a number of years, Secretary Dole has been talking to me, and I am sure to other members of this committee, on the need for upgrading the educational institutions in this country to take care of the minerals industry. The fact of the matter is, before he became Secretary he was in my office on one occasion and talked to me about this. Shortly after, Dr. Osborn became head of the Bureau of Mines and he talked to me concerning the same matter and, as a result of those conversations, I introduced the bill which I introduced early this year; namely, H.R. 6788.

Now, the hearings which we are holding on this bill are the first hearings that have ever been held on this matter. The House Education and Labor Committee included it in their higher education bill but they never held a hearing on it, on that section, just as they never held hearings on a good many other sections of what was included in the higher education bill and, of course, you know the fiasco that occurred on the floor upon consideration of the higher education bill when that committee transgressed on the jurisdiction of a half dozen standing committees of the House. It was a typical example of poor legislative practice.

I think the Senate—I want to congratulate the Senate for having taken action on this bill. I think that maybe after this is over we should take a look and determine whether or not we want to go as far as this present bill goes, but I sincerely believe that if this committee, which has responsibility for mines and the minerals industry of this country, is going to do its job, it has to report out this bill and turn this matter over to the Secretary of the Interior.

If not, and we sit back and let the Committee on Education and Labor assume the jurisdiction of this committee, then I can tell you that there will be nothing done or so little done as far as the minerals industry is concerned that it will amount to a nonentity.

Why do I say that? That section of the bill to which the point of order was made and overruled by the Parliamentarian is a miniscule part of the overall higher education bill and I am satisfied that when the time comes for HEW to go before the Office Management and Budget for their funds that the minerals industry will be forgotten, they will try and take care of the overall picture and forget about the thing for which we are responsible and for which these hearings are being held.

Therefore, I would hope that in addition to marking it up that this committee would act and report the bill out and ask for a rule and have it out on the floor. Even though the distinguished chairman of the Rules Committee has sent out a notice to the chairman and ranking members that we have to have all bills in by a certain date, be left a great loophole in that notice, matters which are considered matters of urgency. I am sure that as far as I am concerned, and this committee should be concerned, this is a matter of urgency, the Senate having passed the bill.

If we pass it on the floor of the House, send it to the President to be signed, then the conferees in the higher education bill will certainly be in a position to say there is no reason to include it in their bill and will delete it.

Mr. ASPINALL. Will my colleague yield?

Mr. SAYLOR. I will be happy to.

Mr. ASPINALL. Will my colleague agree with me it is better to send it to the full committee?

Mr. SAYLOR. Oh, yes; I want it sent to the full committee, and I would like to see the full committee act on it and send it on to the floor.

Mr. ASPINALL. We will have it so that 2 weeks from yesterday we can act upon it if we wish to.

Mr. SAYLOR. Yes, sir; we can bring it up under suspension and I think we can pass it, accept the Senate version, or sit down in conference with the Senate and have that done before the conferees on the higher education bill act.

Thank you, Mr. Chairman, for this opportunity.

Mr. EDMONDSON. Any other members desire to comment or be heard? If not, the Chair recognizes our distinguished Assistant Secretary of the Interior, the Honorable Hollis M. Dole.

I meant to insert H.R. 6788, the text of it, in the record also. Is there objection?

Hearing none, without objection, so ordered.

Mr. ALLOTT. As Chairman ASPINALL remarked, there has been some question as to how the Senate should proceed in conference. However, I am happy to report that recent events in the House have apparently created a situation whereby a solution is now in the offing.

Mr. President, I shall quote from a letter written by the chairman of the House Committee on Education and Labor (Mr. PERKINS) and addressed to

Mr. LLOYD, a member of the House Committee on Interior and Insular Affairs, who has urged the enactment of S. 635 or a similar measure. He says:

I would think, therefore, that the preference of your mineral educators could be best served by action on the part of your Commitee in moving the bill now before it. Assuming that the bill is reported and passed, I doubt there would be any willingness on the part of our conferees to insist on one Title XI.

Mr. President, I ask unanimous consent that the full text of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
February 9, 1972.

HON. SHERMAN P. LLOYD,
House of Representatives,
Washington, D.C.

DEAR COLLEAGUE: This is in response to your letter of January 20 regarding Title XI (Mineral Education Act) of the Higher Education Act Amendments, as passed by the House last November 8.

I am aware of the Senate action with respect to the passage of a related measure, and also aware that the House Committee on Interior and Insular Affairs has not yet reported such legislation. I can also appreciate that mineral educators in your State might prefer the Senate version and the contemplated version of your Committee, as well as the reasons for this preference.

As you know, the Higher Education Act Amendments are in the process of reconsideration by the Senate and it may be some time before a conference committee can resolve the differences between the two bills—including the title relating to mineral education. I would think, therefore, that the preference of your mineral educators could be best served by action on the part of your Committee in moving the bill now before it. Assuming that bill is reported and passed, I doubt there would be any willingness on the part of our conferees to insist on our Title XI. In the absence of that action, however, I believe our conferees are likely to insist on some version of Title XI being included in the Higher Education package.

I hope I have been helpful in expressing what I view to be the position of the supporters of Title XI. Our objectives are obviously in accord, and the question seems only to be which is the most expedient procedure of achieving them.

With best wishes,
Sincerely,

CARL D. PERKINS,
Chairman.

Mr. ALLOTT. I think it is clear from Chairman PERKINS' letter that the House Committee on Education and Labor has recognized the urgent need for the establishment of mineral institutes or mineral research centers, and has expressed a strong interest in insuring that such legislation is enacted during the Congress. As author of S. 635, I share that interest. The problem has been that two committees have been proceeding down similar roads at about the same time, which has lead to complications in the parliamentary situation. However, as I stated earlier, a solution looms on the horizon.

I have received a copy of a committee memorandum addressed to all members of the House Interior and Insular Affairs Committee. The substance of that memorandum is that H.R. 6788 and H.R. 10950, bills which are similar to S. 635, are scheduled for full committee consideration on Wednesday, March 1, 1972. It should be noted that H.R. 6788, introduced by Mr. SAYLOR, is cosponsored by Mr. DENT, the author of a bill which ultimately became title X of S. 659, the bill now pending before us. Mr. DENT as well as Mr. SAYLOR is also a cosponsor of H.R. 10950, introduced by Chairman ASPINALL. The fact that the chairman, Mr. ASPINALL, and ranking Republican member, Mr. SAYLOR, of the full committee, and the chairman, Mr. EDMONDSON, and ranking Republican member, Mr. MCCLURE, of the Subcommittee on Mines and Mining have cosponsored one or both of the House bills on mineral institutes, displays a sincere interest and intent of the House Interior and Insular Affairs Committee to take definitive action on the legislation. It appears that it has just been the unfortunate parliamentary situation which has evolved which has delayed action up to this time.

I ask unanimous consent that the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM, FEBRUARY 24, 1972

To: All Members, House Interior and Insular Affairs Committee.
From: Sidney L. McFarland, Staff Director and Chief Clerk.
Subject: H.R. 6788 and H.R. 10950 Section-by-Section Analysis.

The Subcommittee on Mines and Mining has referred to the Full Committee H.R. 6788 and H.R. 10950, to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of Dec. 31, 1970, and for other purposes.

Pursuant to Committee Rule 5(d), a copy of H.R. 6788 and H.R. 10950, along with the analysis are enclosed.

This bill will be scheduled for Full Committee consideration on Wednesday, March 1, 1972.

SECTION-BY-SECTION ANALYSIS (PURSUANT TO COMMITTEE RULE 5(d))

H.R. 6788 and H.R. 10950, to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of Dec. 31, 1970, and for other purposes.

TITLE I—STATE OF MINING AND MINERAL RESOURCE RESEARCH INSTITUTES

SECTION 100. (a) authorizes the appropriation of $500,000 to the Secretary of the Interior for FY 1972 and each succeeding year thereafter for the purpose of assisting States in establishing and maintaining mining and mineral resource research institutes. Such Federal money would be matched by non-Federal funds. The research institutes would be established at one State or college in a State. The college selected would be a Land Grant College established in accordance with the Act of July 2, 1862. Where there is more than one qualified college in a State, the Secretary may, upon designation by the Governor, select one. Two or more States could cooperate in the designation of a single institute to serve the participating States.

(b) Each institute would affiliate with a component of a College or University for research and other matters.

Section 101. (a) authorizes the appropriation of $$5,000,000 for 1972 and the four succeeding years for the institutes to meet expenses of specific research and demonstration projects of industry-wide application.

(b) Establishes criteria for the grants made under subsection (a).

Section 102. establishes criteria for use and payment to States and their institutes.

Section 103. authorizes the use of funds for printing, publishing and planning and direction in addition to research and investigations.

Section 104. charges the Secretary with proper administration of the Act and authorizes him to promulgate regulations to carry out its provisions and to report annually to Congress.

Section 105. is a disclaimer of Federal control of a College or University or the relationship of a College or University to a State.

TITLE II—ADDITIONAL MINING AND MINERAL RESOURCE RESEARCH PROGRAMS

Section 200. authorizes the appropriation of $10 million in FY 1972 (increasing by $2 million each year for 5 years and continuing at $20 million annually thereafter) for grants or contracts to educational institutions, foundations, Federal, State or local government agencies for research in minerals programs that would not otherwise be undertaken.

TITLE III—MISCELLANEOUS PROVISIONS

Section 300. directs the Secretary to cooperate with other Federal agencies, State agencies and private institutions to eliminate duplication and to coordinate activities.

Section 301. is a disclaimer of authority or surveillance of the Secretary of the Interior over other Federal mineral programs of other governmental units.

Section 302. permits contracts or other work under this Act to be conducted without regard to Sec. 3684 Revised Statutes (31 U.S.C. 529) when the Secretary finds advance payments of initial expenses are required.

Section 303. contains a provision that patents or processes developed will be available to the public.

Section 304. provides for the establishment, by the President, of a center or clearinghouse for cataloging current and projected minerals research.

Section 305. provides for clarification of agency responsibility and coordination of research by the President.

Section 306. (a) (b) and (c) provides for the establishment of an Advisory Committee, the membership, duties and responsibilities as well as payment and reimbursement of its members.

Mr. ALLOTT. In light of all of the events I have discussed, it appears unnecessary for the conference committee to concern itself too much with title X, except to insist that it be deleted from the conference report, since the House Interior Committee will be taking action on the other legislation (S. 635, H.R. 6788, and H.R. 10950), which will obviate the need for title X in the pending bill. I have taken the time of the Senate to explain the situation and call attention to recent events so that the conferees on S. 659 will be fully informed.

I am particularly pleased that the manager of the pending bill is in the Chamber at the present time, and has been able to listen to these remarks and the subsequent history which will obviate the necessity of having title X in the bill when this measure goes to conference.

Mr. President, I yield the floor.

Mr. HANSEN. Mr. President, title X of the Higher Education Act as passed by the House of Representatives provides for the establishment of Mineral Resources Conservation Institutes. I have noted that this title was stricken from the legislation by the Senate committee, and I commend and support this action.

I am taking the Senate floor today to inform my colleagues of the reasons why I think title X of S. 659 as passed by the House should not be enacted and to urge that the Senate conferees hold firm to

the Senate deletion of title X from the legislation.

I am strongly in favor of the concept establishing mineral resources institutes. For this reason, I cosponsored S. 635, legislation to establish such institutes throughout the Nation.

This legislation was considered by the Senate Interior and Insular Affairs Committee and passed the Senate on July 15, 1971. The bill is expected to be considered shortly in the House of Representatives.

The Mineral Resources Research Institutes established under S. 635 are patterned on the highly successful Water Resource Research Institutes for which the Congress provided several years ago. This program has been highly successful, and there is every reason to believe that a similar program for mineral resource research would be successful also.

The approach provided in S. 635 is far superior to title X of S. 659 which provides the mineral conservation education program that is not adequate and in addition very clumsy and indirect since it would be administered by the Commissioner of Education only with the advice and consent of the Secretary of the Interior. Is the middleman truly necessary? Furthermore, since S. 635 is an amendment to the Mining and Minerals Policy Act of 1970, in which the responsibility of the Secretary of the Interior with respect to the state of domestic mining and so forth, is clearly stated, the Secretary should also be designated as the administrator of a mineral research and training program authorized by the Congress.

In addition, the provision of S. 635 will insure that research conducted under the program is not diluted and that the research and development under the program will provide valuable results. Much productive activity can be and is being undertaken at the graduate level. With the Federal assistance under S. 635, this effort can be materially increased and in time there can be sufficient feedback so as to furnish incentive for instructional activities at the advanced undergraduate level.

The very real concern for environmental impact which all mining activities must demonstrate is more than sufficient justification for this program of research and training. It is timely, and I strongly urge that the Senate conferees refuse to accept title X of the House-passed legislation and instead insist on a program for mineral research and development as established under S. 635, legislation previously passed by the Senate and to be shortly considered by the House of Representatives.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday next is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The unfinished business will be the committee amendment in the nature of a substitute to the House amendment in the nature of a substitute to S. 659. By virtue of the unanimous-consent agreement which was entered into earlier today, the pending amendment by Mr. Scott and Mr. Javits will not be the pending question on Monday; but that amendment will go over until Tuesday, along with all other so-called civil rights amendments. On Monday, the committee substitute will be open to further amendment with respect to so-called noncivil rights amendments, on which there will be a time limitation of 1 hour on each amendment.

Mr. President, there is a possibility of rollcall votes on Monday, and the program for Tuesday next will be stated on Monday.

ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 28, 1972

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and at 5:53 p.m. the Senate adjourned until Monday, February 28, 1972, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 25, 1972:

DEPARTMENT OF STATE

Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman and to the United Arab Emirates.

ACTION

Kevin O'Donnell, of Maryland, to be an Associate Director of Action.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for terms expiring December 17, 1974:

Dan W. Lufkin, of Connecticut.

J. D. Stetson Coleman, of Virginia.

EXTENSIONS OF REMARKS

NATIONAL ECONOMIC POLICY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 25, 1972

Mr. BYRD of Virginia. Mr. President, the Wall Street Journal of February 18 contains an excellent editorial on the subject of national economic policy.

The editorial focuses on the recent remarks of Mr. Herbert Stein, Chairman of the Council of Economic Advisers, before the National Press Club. It is pointed out that while Mr. Stein was able to deal with the Nation's economic problem in a clever and humorous way, the thrust of his message was deeply serious.

The editorial stresses that much hard work will be required if we are to achieve economic stability and at the same time maintain economic freedom.

I ask unanimous consent that the editorial entitled, "Economic Fun and Games," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ECONOMIC FUN AND GAMES

According to recent advices from Washington, some administration officials complain that the press paid all too little attention to some remarks by Herbert Stein, the President's principal economist. If so that's a defect that we'll help correct.

Mr. Stein, after all, is an economist to treasure, since he firmly believes that economics need not be a dismal science. In his remarks at the National Press Club, for instance, he suggested that Democratic presidential hopefuls now were busily lining up economic advisers: "Senator Muskie has offered Senator McGovern Arthur Okun and a first round draft choice from the 1972 crop of Ph.D.s in exchange for Kenneth Galbraith, but McGovern says it's no deal unless Okun grows a beard."

When Mr. Stein gets to the heart of his topic he can also be rather humorous, though perhaps less intentionally so. The basic situation, as anyone can see, does have its elements of comedy.

To begin with the Nixon administration came into office proclaiming the virtues of free enterprise, the folly of constant manipulation of the economy. For a while the Nixon men were almost as good as their word, but then they began to reap the results of the inflation inherited from the Democrats.

So what did the Republicans do? For a while they tried to work both sides of the street. In 1971 B.C. (Before Controls) financial policy became highly expansive, but administration officials even now would like everyone to believe otherwise.

In explaining why Mr. Nixon finally opted for wage-price controls, Mr. Stein puts it this way, without even cracking a smile: "If we had been concerned only with inflation we could have stuck it out with a classic prescription of fiscal and monetary restraint."

On August 15, when controls were imposed, the government had recently finished a fiscal year with a budget deficit of $23 billion, compared with less than $3 billion the year before, and it was beginning to sink even deeper into red ink. The Federal Reserve System, meanwhile, was inflating the money supply at a merry pace. That's the sort of restraint that most classicists would disown.

Despite the Republican policy of unrestrained restraint, the Democrats were still snipping at them. Inflation, unsurprisingly, was roaring right along and the economy, also unsurprisingly, was finding it hard to make headway among the confusion.

The Democrats' proposals were also predictable: even more economic intervention. It was surely a joke on the Democrats when the GOP largely took their opponents' advice.

At least Mr. Stein seems to find it pretty funny. "Does anyone propose a more stimulative fiscal policy if that means a bigger deficit?" he asks. Do the "Democrats propose to control wages more rigorously?" So far as we've noticed, no Democrat has been able to come back with a clever reply.

The Nixon administration, Mr. Stein boasts, is "running the biggest budget deficit ever, except for World War II. . . . We have the most comprehensive price-wage control system ever except during the Korean war and World War II. . . . We have suspended the convertibility of the dollar" and, through negotiation, achieved devaluation. How, he implies, can the Democrats do anything more?

Mr. Stein is probably right when he suggests that many of the Democratic presidential hopefuls will wind up by promising to do about what the Republicans are doing but somehow to do it better. "Me-too" plots have never been especially successful in politics, but they seem to be a staple of political farce.

Politicians find economic intervention more fun than the hard work needed to eliminate even the excuses for such manipulation. If unions and businesses possess excessive power, set up elaborate controls to police them; don't bother to try to reduce the power. If there isn't enough spending to keep the economy perking along, take the money from the public in taxes and inflation and spend it; the people don't know what's best to do with their money.

Heading back toward economic freedom won't be easy, even if the politicians finally find the will. However delightful it may be to have a little comic relief in the dismal science, economics was never meant to be all fun and games.

EFFORT TO KILL EUROPEAN RADIO STATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. DERWINSKI. Mr. Speaker, I direct the special attention of the Members to the unfortunate impasse in the House Senate Conference on the bill to provide assistance to Radio Free Europe and Radio Liberty.

The impasse is caused by the obstinacy of one individual, that person being the chairman of the Senate Foreign Relations Committee. In my judgment, the determination by Mr. FULBRIGHT to kill Radio Free Europe and Radio Liberty is as poor a behavior as I have ever seen in the Congress. It represents a monumental setback for the necessary programing of news to the captive peoples of communism.

Mr. Speaker, I insert at the conclusion of this statement a letter addressed to Senator FULBRIGHT by the chairman of the German Christian Democratic Party's Defense Policy Committee which is pertinent to the remarks I have just made:

DEAR SENATOR FULBRIGHT: Yesterday, we received the news of your speech in the Senate in which you requested that the radio stations "Free Europe" and "Liberty" should terminate their operations.

Since we know of your political importance and influence, Senator Fulbright, many people in my country were deeply disturbed by the news of your speech. They saw in your request to terminate the operations of these radio stations—in spite of the continued stifling of liberty and freedom in Eastern Europe—another manifestation of American disengagement. We noticed with deepest regret that another result of your speech would be the termination of the practically irreplaceable "Institute for the Study of the USSR". The scholarly activities of this Institute have very essentially assisted in spotlighting the actual meaning of Soviet reality which would have otherwise remained hidden in its carefully fostered semi-obscurity.

If the news which we received is correct, you referred to the activities of these two broadcasting stations as "anachronistic". I regret to say that many of my friends and I myself fail completely to understand how you could possibly arrive at such a conclusion. For what reasons do you wish to deprive those who assist us in breaking down the barriers isolating Eastern Europe from their sources of information of the very means which enable them to continue their work? Incidentally, the very concept of such an isolation is alien to men of western civilization. Why do you say that their work is anachronistic? Don't you understand, Senator Fulbright, what it means to millions of people in East Central Europe, in the Balkans, in great parts of the Soviet Union, in the Baltic countries, and in the wide open spaces of Siberia, to hear in their own languages sound information with up-to-date comments during day and night?

Indeed, there are many millions for whom the news of the stations "Free Europe" and "Liberty" are the only connection with the non-Communist world. They are the only voice which reaches them from the far-away countries in which liberty and freedom prevail. For these millions, stations "Liberty" and "Free Europe" are the only means to hear from the West specific news of what happens in their own countries and in the "Socialist block." Have you forgotten, Senator Fulbright, that stations "Liberty" and "Free Europe" were the first ones which in December 1970 broadcast the terrifying news of what happened in the Polish-renamed ports of Danzig, Stettin and Zoppott when the Communist dictatorship had hundreds of desperate workers shot and killed? The news was broadcast by these two stations in a way which made it impossible to obscure these events any longer. At that time, all of Poland heard the voice of the free world. And this voice of the free world came from the two American broadcasting stations, "Free Europe" and "Liberty."

Needless to say, we are aware of the furious opposition fostered for many years by those who—in the name of Marxism-Leninism—have deprived their peoples of their liberty and freedom. We know that you have asked for many years over and over again that the transmissions of the broadcasting stations "Free Europe" and "Liberty" be terminated. We know that you say that the continued broadcasting of information from the free world amounts to a manifestation of the cold war.

There are also some individuals in my country who would like to cooperate in accomplishing the goals of Communist propaganda, namely to silence those whose voice continues to maintain the hope of enslaved and oppressed peoples that freedom and human rights cannot be permanently suppressed.

Dear Senator Fulbright, I myself have no connection whatsoever with any of the aforementioned institutes or stations.

I write this letter exclusively in my capacity as a freely elected member of the parliament of the German people because I can still recall how during the Nazi regime my parents and I listened to English broadcasting stations each night in order to renew our hope that a dictatorship will not and cannot prevail over freedom. I also write this letter to you because I know that the last rays of hope would be extinguished in Eastern Europe if your proposal should be accepted. Please remember that hundreds of thousands of intellectuals and even many members of the ruling Communist bureaucracy listen to the broadcasts of the stations "Free Europe" and "Liberty".

I appeal to you to support policies which are intended to multiply the outlets for the distribution of free instead of manipulated information. Please do not support those whose only wish is the utter destruction of the means by which free information can be distributed.

Sincerely yours,

Dr. WERNER MARX,

Chairman of the Committee of the CDU/CSU Parliamentary Party for Foreign-, All-German, Defense-, and Development Policy. Chairman of the Federal Committee of the CDU for Defense Policy

FAIRFAX COUNTY, VA., UNDERTAKES EXPERIMENTAL SOLID WASTE PROGRAM IN THE MOUNT VERNON AREA

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 25, 1972

Mr. SPONG. Mr. President, public understanding and appreciation of the economic and social costs of solid waste is increasing, and a concept of solid waste management is evolving. The growing technology and affluence of American society have laid a heavy burden on solid waste facilities. Refuse collected in the Nation's urban areas has increased from 2.75 pounds per person per day in 1920 to more than 5 pounds today. It is expected to reach 8 pounds by 1980.

According to a bulletin from the National Center for Resource Recovery, a nonprofit corporation organized by industry and labor to monitor and coordinate technology and research in the area of solid waste:

People are increasing at a rate of 1 per cent, solid waste at 4 to 6 per cent. What is

particularly worrisome about this pollution is that at the same time this trash increases resources shrink. . . . We must develop a total system—in which we reduce the production of waste, reclaim useful materials and recover the value of discarded resources.

The Environmental Action Committee of the Mount Vernon area of Fairfax County has translated a concern over the solid waste problem into action. The citizens' group approached the Fairfax County Board of Supervisors with a proposal for an experimental recycling program. The board agreed, and instructed county officials to implement the program.

The result is a 10-week experiment during which the county will collect paper, glass and aluminum placed at the curb by homeowners in three subdivisions of the Mount Vernon area. The materials will be sold by the county for recycling and reuse.

While this is only a trial program, it is tangible evidence of a willingness by local government to undertake a recycling program. It also represents an excellent example of a citizens' group working in concert with local government to solve a serious problem.

Mr. President, the County of Fairfax and the Environmental Action Committee of the Mount Vernon area are to be commended for their joint effort on this matter. An article published January 15, 1972, in the Alexandria Gazette explains the program in greater detail, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPERIMENTAL RECYCLING TO START MONDAY

The first collection in the Fairfax County experimental recycling program begins Monday and will continue for 10 weeks in Hollin Hills, West Grove, and Tauxemont. It is an innovative attempt to solve the solid waste problems of a growing suburban area.

County trucks will pick up newspapers tied in bundles, glass containers rinsed and sorted by color—clear, brown, and green, and aluminum. All recyclable materials of this type are to be placed at the curb by the homeowner and will be picked up by the county the day before the regular collection day. Containers used to hold the recyclable materials will not be picked up. The county will sell the materials they collect. Such items are reused in a variety of ways including making recycled paper and building materials.

This program was instituted as a direct result of work by the Environmental Action Committee of the Mt. Vernon area, a citizens group concerned with local and state environmental problems. Herbert E. Harris II, Fairfax County supervisor from the Mt. Vernon district, endorsed the program and requested the Public Works Department to implement a pilot program. V. Tielkemeier of the Division of Solid Waste organized the experimental program. If it is successful the plan will be expanded around the county.

During World War II it was common practice to recycle and reuse as much material as possible. After the war the practice was discontinued.

The National Center for Solid Waste Disposal, Inc., a nonprofit corporation in Washington, D.C., is concerned with finding practical solutions to the solid waste problem. It provides services, primarily educational, to the general community and performs research and development of the technological needs for reclamation and recycling. Their preliminary studies indicate that the concept of disposal must be abandoned and be replaced with plans for resource recovery.

A TRIBUTE TO FRANCIS X. GALLAGHER

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. SARBANES. Mr. Speaker, it is with great sadness that I bring to the attention of my distinguished colleagues the tragic death of Francis X. Gallagher, one of Maryland's truly outstanding citizens. Francis Gallagher died on Friday, February 11, in Baltimore after an extraordinary career of service to his community, his church, and his fellow man. It was a career all the more unique and all the more tragic because it lasted for so brief a time. Had he lived, today would have been Francis Gallagher's 44th birthday.

Occasionally, Mr. Speaker, we are fortunate to have in our midst someone whose mind and heart and character exemplify all that we hold to be good and true in our own lives. Francis Gallagher was such a man. To have known him and the warmth of his spirit, the keenness of his mind, the depth of his faith, and his commitment to a just and decent society was indeed to have been fortunate. He brightened the lives of all with whom he came in contact and left upon each a lasting and enriching impression. It is upon such men that the strength of our Nation rests and his passing leaves our democracy lessened and our spirit diminished.

Mr. Speaker, at the funeral last week in the Cathedral of Mary, Our Queen, two deeply moving tributes, both included below, were paid to Francis Gallagher. The first was given by His Eminence, Lawrence Cardinal Shehan, Archbishop of Baltimore. The second by his brother, Father Joseph Gallagher. They are important not only because of what they say about Francis Gallagher, but also because of what they say, in speaking of him, about the meaning of a good life. I hope that all will take a few moments to read these tributes.

In addition, Mr. Speaker, much was written in the press about Francis Gallagher's accomplishments and contributions. I have set out below a portion of those comments so that those who did not know him might have a better understanding of how very much he meant to our community. His passing is a tragic loss and we shall all miss him deeply. My wife joins me in extending our deepest sympathy to his widow, Mary, his five children, and the other members of his family.

HOMILY GIVEN BY LAWRENCE CARDINAL SHEHAN AT THE FUNERAL MASS FOR FRANCIS X. GALLAGHER

The vast gathering here is in itself a sufficient homily for the occasion because it teaches us the value of the life that we have lost. The passing of Francis Gallagher who is so recently a part of our lives, a part of the Church, and of this Archdiocese is a mystery to us. It is almost unbelievable that he who so recently played so active a part in this community has now passed from us and will be with us no more.

There is a certain mystery to his going at such a young age with so much promise ahead, so much to do, and with so many who depended upon him. The mystery is solved only in terms of our Christian faith.

Our Lord and Saviour Jesus Christ accomplished his mission from the heavenly father in fewer years than were granted to Francis Gallagher. The Gospel tells us that unless the seed falls to the ground to die it remains only a seed. If it does die, new life springs forth. Again, the same Gospel indicates to us that our life is to be valued in terms of our service to God and our fellow man and in terms of Christian faith and hope.

When we think back on the life of Francis Gallagher our first memory is likely to be his brilliant mind, ready wit, and pleasant humor; a mind capable of sizing up a situation in its entirety and going to the very heart of it. Beyond this, we think of his great devotion to so many people. He accomplished so much during the short span of his life. But we value a man, not for what he has accomplished but for what he is, the qualities he develops in his life.

Francis Gallagher was a man of great and singular integrity; his word was his bond; he was trusted implicitly; a man of his own conscience. Although his loyalty to his country was sincere and above all suspicion, and although he was united to the Catholic Church with bonds of strongest faith; he was not the Government's man; nor was he the Archbishop's man; he was his own man with his own conscience. He was a man of deep faith, one might say unquestioning faith, if such a thing can exist today. But it was in his all-embracing love that the quality of his Christian character shone most brightly. He had the ability to see a spark of goodness in every man. He was beset by many; I have never known him to turn from any man because he considered him unworthy of his interest, his attention, his help.

He was in many ways like the great Christian lawyer, St. Thomas More. He had the same unbounded energy, the same embracing character of St. Thomas More. When More mounted the scaffold to lay his head on the block, he protested that he died "the king's good servant but God's first." So Francis Gallagher could have said that he lived the State's good servant and the Church's good servant—but God's first.

Like More, too, he had his own martyrdom—a long life of constant and often excruciating pain from which the best in medicine proved incapable of bringing him relief. This pain, however, never interfered with his work nor with that spirit of good will and pleasant humor which was so characteristic of his life. We shall miss him indeed, and we shall remember him tenderly.

We express our profound sympathy to his wife and children, his mother and his brother Joseph, and to all his family and many relatives and friends. While we mourn his passing our hearts are filled with the hope that springs from the knowledge that to a Christian death is but the beginning of a better life—a life in which all of us one day will join with him.

EULOGY GIVEN AT THE MASS FOR FRANCIS X. GALLAGHER BY FATHER JOSEPH GALLAGHER, THE FIRST OF HIS MANY BROTHERS

In the name of my brother's stalwart wife and his five captivating children, in the name of my mother, who first taught him tenderness, and of my younger brother and sister and myself, who were the first to profit from his manly and fortifying presence, I wish to thank all of those people, starting with Cardinal Shehan, who have

honored my brother so highly, mourn him so deeply, and have consoled his family so heartfully.

The profoundest wellspring in my brother was a passionate love for life—despite all its aches and shadows, with which he was not unacquainted, and of which I never heard him complain.

What he loved most about life was people, people as people, in all their wonderfully wild variety—black and white, Protestant, Catholic and Jew, believer and unbeliever, "important" people, and just plain people, Democrats and, as he would probably say, "even" Republicans.

What he loved most about people was the chance to befriend them in their need, to ease their pain even though it magnified his own—that pain which he never outwitted, but which he held in heroic contempt. By the alchemy of his boundless drive, resourcefulness, generosity and availability, he transmuted his own sufferings into a soothing medicine for countless others.

The truest comfort to be found in our present pain is the astonishing and blazing witness of the healing use to which he always cheerfully put his own.

We are none of us surprised that his great heart gave out, for his heart was giving out all his short life long, and that was the part of himself he used the most.

After big holiday meals, my brother loved to quote the words: "We thank you, Lord, for this brief repast; many a man would have called it a meal." Grateful for the feast of him, we might aptly say today as our Grace After Him: "We thank you, Lord, for his brief sojourn; many a man would have called it a lifetime."

Perhaps one of his beautiful children spoke most simply and eloquently for us all. Learning of his father's death, he said in a tone of measureless loss: "He was so nice." So he was. So he truly was.

[From the Evening Sun, Feb. 14, 1972]

FRANCIS X. GALLAGHER

Francis X. Gallagher's bubbling good nature disarmed his opponents and warmed his allies. It was a quality which, coupled with an intelligence that showed him quicker than most where the real truth lay, marked him for leadership in his church, in politics and in civic life. Men smiled when Francis Gallagher appeared; but they stopped to hear what he had to say. Only close friends understood two other qualities which ran largely unseen behind the jolly, perceptive exterior. One was a purposeful morality, a determination to speak up for the weak when the weak needed help and, for the strong, to steer them in the direction of their better instincts instead of their worse. But from a darker side Mr. Gallagher was surely destined to move as high in public affairs as anyone of his generation. This side was a series of debilitating physical illnesses which, time after time, cut him back just when the hour seemed to strike for him to move for the top. As it was, he died at 43 with more substantial accomplishments behind him than most men his age but with his great potential still unrealized.

Annapolis knew him in the late 1950's as a darting young legislator, unafraid of change when reform was in the air. Joe Tydings and young Tommy D'Alesandro were larger men, and more successful campaigners, because in the background of each stood Frank Gallagher and his human wisdom. Later, it was the Catholic Church which benefited and turned more flexible—notably in its attitude toward racial relations—because of the Gallagher advice. Death caught him, characteristically, hard at work defending Father Wenderoth and Father McLaughlin in their Harrisburg trial.

Cardinal Shehan hit it right when he spoke of Frank Gallagher's "courage" and of the "better place" the world is because of it. What a still better place it could have been but for the frailties which held him back and which stopped him in the end. But what a special courage it took, in the circumstances, to carry him as far as he went.

[From The Sun, Feb. 14, 1972]

FRANCIS X. GALLAGHER

It is always shocking to hear that a vital community figure has been fatally stricken in the prime of life. The fact that Francis X. Gallagher was able to pack so many achievements into his brief 43 years makes it no less disturbing.

As chief legal adviser for the Baltimore Archdiocese, he served Cardinal Shehan during a restless period that saw the church move closer to the temporal mood of the times. When Pope John XXIII initiated the Ecumenical Movement, Mr. Gallagher was available to open local channels with other men of goodwill. If civil rights activists justly sought wider employment opportunities for blacks, he quickly set the machinery in motion. His character sharply reflected that which is decent in contemporary America.

In that regard, Mr. Gallagher worked eagerly through most of his life in the political community. As a member of the Maryland House of Delegates, then people's counsel to the Public Service Commission, and finally as adviser to numerous candidates for office, he lifted politics and public service to a higher level. Whatever the goal, he always seemed to deliver twice the effort of any normal man. And to his tasks he brought a sharp wit and warmth that constantly reminded the vain and the mighty that they were merely mortal.

He was the product of a "typical, Irish-Catholic family," whose offspring went to parochial schools and some on to Loyola High School and College. Such training, when it took, fitted a man with self-discipline, generosity and moral courage. It was understandable that he would be working, practically up to his death Friday, on further proposals for state aid to parochial schools. In a very real sense, Francis Gallagher represented the best that system had to offer.

[From the Baltimore Evening Sun, Feb. 12, 1972]

FRANCIS X. GALLAGHER DIES AT AGE 43

Francis X. Gallagher, the witty, indefatigable attorney, political organizer and advocate of liberal social reform died last night of a heart attack at Johns Hopkins Hospital. He would have been 44 February 25.

At the time of his death, Mr. Gallagher, long-time attorney for the Archdiocese of Baltimore, was a defense attorney for the two Baltimore priests accused in the Harrisburg antiwar conspiracy trial.

MASSIVE HEART ATTACK

John Evelus, Mr. Gallagher's law partner since 1962, said the attorney was admitted to the intensive care unit at Johns Hopkins Hospital Wednesday after complaining of indigestion and an upset stomach.

He died at 11 P.M. yesterday after suffering a massive heart attack.

A spokesman for the family said Mr. Gallagher was not known to have a heart condition prior to his admission to the hospital.

SERVICES TUESDAY

Funeral services were tentatively set for 10 A.M. Tuesday at the Cathedral of Mary Our Queen.

Cardinal Shehan is scheduled to be chief concelebrant at the services.

In the weeks before his admission to Johns Hopkins Hospital, Mr. Gallagher commuted almost daily to Harrisburg, where he was assisting in the defense of the Rev. Joseph Wenderoth and the Rev. Neil McLaughlin, both of the Archdiocese of Baltimore.

Mr. Gallagher became involved in the Harrisburg trial at the request of Cardinal Shehan.

RAN FOR GOVERNOR

During his political career Mr. Gallagher was an unsuccessful candidate for governor in the legislative election in 1969, a one-term delegate to the General Assembly, and a campaign official for Senator Joseph Tydings, President Lyndon Johnson and presidential candidate Robert F. Kennedy.

Mr. Gallagher grew up in Baltimore, the oldest of four children in what his brother, the Rev. J. Joseph Gallagher, described as a "typical, Irish Catholic family."

GREGARIOUS SCHOLAR

Father Gallagher said his older brother early earned a reputation as a gregarious scholar. He excelled in debate when he attended Loyola High School and became, according to a fellow student, "Mr. Everything" at Loyola College.

Before graduating magna cum laude from that institution, he edited both the school newspaper and the yearbook, was active in the debating and dramatic societies and was elected president of Alpha Sigma Nu, the national Jesuit honorary society.

While studying law at the University of Maryland he was elected to his first political position—delegate to the Democratic State Convention of 1952.

CITY SOLICITOR

Upon admission to the bar he was appointed city solicitor of Baltimore.

Six years later he was elected to the General Assembly from the city's Third District, receiving more votes for the House of Delegates than any other candidate in the city.

In 1961 Mr. Gallagher resigned his seat to become the first people's counsel to the Maryland Public Service Commission. While holding that office, he argued a number of cases successfully, including an appeal against a telephone rate hike.

Mr. Gallagher was noted as a raconteur and as an advocate—often behind the scenes—of liberal causes including civil rights and housing.

But, as representative of the archdiocese, Mr. Gallagher split with liberals when he fought against abortion and for government aid to parochial schools.

SERVED WITH TYDINGS

Mr. Gallagher served in the House of Delegates with Joseph Tydings. He later became a law partner with Mr. Tydings and served as campaign treasurer in the successful 1964 Tydings campaign for the United States Senate.

Senator Tydings was Mr. Gallagher's contact with President John Kennedy and, after the assassination, with Robert Kennedy.

During the 1968 campaign Mr. Gallagher headed the Kennedy forces in Maryland and at the Chicago convention cast his vote for Senator Eugene McCarthy.

He served in a number of civic and public offices. In 1966 he became the president of the Hospital Council of Maryland, and in that same year was appointed acting chairman of Baltimore City Hospitals.

In the early 1960's he was vice president of the Maryland Reapportionment Commission. Later he was a delegate to the Maryland Constitutional Convention.

The attorney was frequently cited for his civic activities.

In 1961 the Junior Association of Commerce of Baltimore awarded him its distinguished service award as outstanding young man of the year.

That same year he received the first annual Metropolitan Civic Society Award. The National Conference of Christians and Jews presented him with a special citation in 1967.

Mr. Gallagher was married to the former Mary Inez Kelly in 1951.

In addition to his wife, Mr. Gallagher is

survived by his daughter, Mary Ellen and four sons Francis, Jr., John Joseph, Patrick Edward and James Lawrence, his mother, Ellen M. Gallagher, of Baltimore, two brothers, the Rt. Rev. J. Joseph Gallagher and Thomas Galvin Gallagher, Los Angeles and a sister, Mrs. Mary Burdell, Dundalk.

NO HOLDS BARRED

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. DULSKI. Mr. Speaker, the kidnapping of a 70-year-old woman by two teenagers very understandably has aroused the ire of the editor of a suburban Washington, D.C., newspaper. His observations are worthy of reading:

[From the Enquirer-Gazette, Upper Marlboro, Md., Feb. 17, 1972]

NO HOLDS BARRED

The kidnapping this week of a 70-year-old woman by two 13-year-olds causes us to look with dismay at the decadence of this nation over the past 50 years which has finally reached down to the cradle.

Up until that time this great nation was a safe place to live in, even in the ghetto sections of our large cities. This was achieved by adhering to strict laws and restrictions, thoughtfully designed by our forefathers to protect the innocent and punish the guilty. This even reached down into our school systems where the children were punished for misbehavior and when they went home they were repunished by their parents.

Certain crimes were punishable by life imprisonment or death penalties to keep persons capable of such crimes out of society.

This left very little chance for unmanageable children to do serious harm and criminals very little chance to become repeaters.

Since that time some social critics decided that our laws were cruel and inhumane and somehow sold the ideas to those in power that everyone should have a second chance (which now amounts to a third, a fourth, etc.).

Parents were urged to use psychology on their children instead of the rod and teachers were hardly allowed to correct them. This generation has now reached maturity and with the mellowing of the penalties for crime, many do not know the meaning of fear or forced restriction which is so essential to the preservation of society.

A great many of these youngsters are so disturbed that they are on dope, they have no care about their appearance and they do not care about the future. Their parents shun their duties and ship them off to some special school to mingle with others with the same illness. Once they are out of these schools, they do not know right from wrong.

For instance, one recent young man who was killed in the commission of a crime, had in his possession a little book recording 50 rapes, a former capital punishment crime.

A 21-year-old man who killed two adults and a child was tried under juvenile law and, even though convicted, will be back out on our streets in less than a year.

If it is cruel or inhumane to keep this kind of people out of society, then let's look at the other side of the picture. What about the victims of these robbers, rapists, kidnappers and perpetrators of heinous crimes?

Are they not also members of this great land of the free? Under our Constitution aren't they guaranteed protection from the irresponsible law-breakers who are seeking to have their pleasure at other's expense?

If it is not too late, we had better reverse this trend before we completely revert to the law of the jungle.

RESOLUTIONS OF THE ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. BEGICH. Mr. Speaker, one of the 12 regions established in the Alaska Native Claims Settlement Act, which recently became law, is the Association of Village Council Presidents. This region, which represents numerous villages along the Lower Yukon and Lower Kuskokwim Rivers, has long been one of the strongest, most organized and vocal of the various Native regional organizations.

Recently, I received in my office a number of resolutions passed by the AVCP at a recent regional meeting. While the resolutions are too lengthy for complete inclusion here, I have prepared a list of the positions taken in these resolutions which I want to share with my colleagues.

I take pride in doing so for two reasons. First, I believe these resolutions indicate the broad range of issues already being addressed by the regional organizations. Second, I hope that my colleagues will note the substantive merits of these positions. Complete copies of all resolutions will be available in my office for all those who wish more details:

LIST OF POSITIONS

No. 72-1: Appointment of Organizing Directors for new regional corporation.

No. 72-2: Designation of new AVCP geographical area.

No. 72-3: Notification of all future musk-oxen transplants.

No. 72-4: Re: Cooperative retail store in Bethel.

No. 72-5: Improved air carrier services in the Bethel area.

No. 72-6: Request for village radios for the communities of Kotlik and Chefornak.

No. 72-7: Reallocation of B.I.A. funds for student scholarships at the University of Alaska.

No. 72-8: Designation of subsistence and hardship land use for Scammon Bay, Chevak and Hooper Bay and prevention of subsurface exploration in the Clarence Rhodes Wildlife Range.

No. 72-9: PHS assistance for water well for the village of Kwigillingok.

No. 72-10: Assistance in procurement of tractor for the village of Kwigillingok.

No. 72-11: Request for "seed money" for grocery store from the National Campaign for Human development of the Catholic Church of America.

No. 72-12: Request for installation of telephone on porch and a private line at the YUT Housing office.

No. 72-13: Support for project to provide recreation, gathering place and social activities in Bethel Heights area.

No. 71-25: Village of Crooked Creek radio schedule and radio ownership transfer.

No 71-26: Request for travel funds for Human Service Aides of State Department of Health and Social Services, Division of Family and Children Services.

No 71-27: Release of land for Brown Slough/Bethel seawall project.

No 71-28: AVCP's recognition and designation of YUT Regional Housing Development Corporation as regional housing development mechanism.

No. 71-29: Request for secondary road construction between Napakiak, Oscarville and Bethel.

No. 71-30: Opposition to and request for repeal of State statute to permit subsistence fishing.

No. 71-31: Designation of AVCP Education Board as policy advisory board for the Bethel Broadcasting Corporation.

No. 71-32: Establishment and support of Executive Director and Administrative Director positions for the Yukon-Kuskokwim Health Corporation and approval of salary levels for these positions.

No. 71-33: Assistance for road improvement of Stony River.

No. 71-34: AFN consultation with AVCP board for actions pertaining to AVCP region.

No. 71-35: Radio-telephone request from State of Alaska for the village of Stony River.

No. 71-36: Electric generator request by village of Stony River for radio use.

No. 71-37: Request for funds and construction of sidewalks for the village of Toksook Bay.

No. 71-38: Implementation of Crooked Creek Airport proposal . . . at an earlier date.

No. 71-39: To inform legislators, state and federal agencies of the need for bridges over two creeks at the village of Crooked Creek.

No. 71-40: Request for BIA housing at the village of Kongiganak.

No. 71-41: Request for State of Alaska to build 3,000 feet of sidewalk through the village of Kipnuk.

No. 71-42: Request for Wein Consolidated Airlines to build cargo and waiting room at village of Mekoryuk.

No. 71-43: Land eligibility and selection rights for people on Nunivak Island.

No. 71-44: AVCP to purchase land with settlement funds.

No. 71-45: Request that portions of Alaska Native Claims Settlement Act of the House which eliminates subsistence hunting and fishing be eliminated.

No. 71-46: Request for new school at the village of Alakanuk.

No. 71-47: AVCP release of lands to the village of Kwethluk.

No. 71-48: Establishment of Native Health Task Force to investigate mercury and other metal contamination of marine biology.

No. 71-49: Request for the PHS and YKHC to construct water well for the village of Marshall.

No. 71-50: Request for legislators and FAA to complete airfield at the village of Chefornak.

FLUSHING AIRPORT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. ROSENTHAL. Mr. Speaker, the city of New York, with the help of Federal funds, plans to spend upward of $11 million to upgrade and expand an airport that should instead be closed at once as a safety hazard.

I have long opposed not only the expansion but the mere existence of Flushing Airport as a threat to the safety of persons living nearby and a potentially dangerous source of increased air traffic in already overcrowded airways.

The Flushing Airport Development Study made for the city by R. Dixon Speas Associates actually supports my position that Flushing Airport is another example of city hall's misconception of progress and its callous disregard for the wishes and welfare of the residents of an area affected by its building programs.

This time it plans to spend millions and millions of dollars to provide a place for corporate executives to land their private planes 5 minutes closer to their plush Manhattan offices.

This amounts to sacrificing public safety on the altar of corporate convenience. This facility is also a haven for those private pilots who wish to avoid too rigorous safety regulations of a controlled field such as LaGuardia. How many pilots using Flushing Airport actually take advantage of the control tower at LaGuardia, and how many simply fly in unannounced?

If Flushing Airport is so vital and so important, then perhaps it should have its own control tower. But why do not we hear Commissioner Leedham ask for one? Is it because the pilots who use Flushing do so because they want to avoid just that? LaGuardia has the closest control tower, but it does not handle Flushing traffic except as requested by a random flight.

I will tell you why, in one word, I oppose Flushing Airport. Safety. I will repeat that word for those who didn't hear it or find it alien. Safety.

I believe, I am convinced that Flushing Airport, in its present location, is a hazard to the safety of the community around it and to air traffic as well.

The Federal Aviation Administration shrugs off criticism of Flushing Airport with the same disdain it shows for air and noise pollution caused by aircraft. The FAA is traditionally oblivious to the public interest, preferring to act like a client of the industry it is supposed to regulate rather than the watchdog it was set up to be.

There are those who say that opposing Flushing Airport is opposing progress. That is tantamount to saying that fighting pollution is being opposed to technological growth. Both contentions are equally ridiculous.

I do not question the need for an airport such as Flushing, only its location. There is a definite need for reliever and satellite fields, but they must be located at safe and reasonable distances from the busy air traffic centers they are supposed to avoid. Flushing does not meet those criteria. To put a satellite reliever in close proximity to a terminal hub airport defeats its basic purpose. That is the case of Flushing Airport. Located as it is under the wing of LaGuardia, one of the world's busiest, Flushing is inhibited and it puts a crimp in LaGuardia as well.

Flushing Airport must be moved to a safer, more suitable site, or it must be closed.

Flushing Airport's location at the center of one of the world's most highly traveled aviation crossroads as well as its proximity to LaGuardia Airport raises the danger of midair collisions.

In 1968, the FAA began granting immunity from enforcement action to persons reporting near mid-air collisions—NMAC. They got about as many reports that year alone as in all 3 previous years put together for the New York City area. Some 89 were deemed by FAA to be "hazardous incidents."

Everytime we fly we are needlessly exposed to danger because the present air traffic system is based on the concept of equal rights for all pilots.

Three-hundred fifty passengers flying at 600 miles an hour in an incredibly complex and fragile airliner have no more priority in the congested airspace over New York than a Cessna 150, the Volkswagen of the sky, flown by a pilot with 35 hours of training and without radio, radar, or anything other than $10 an hour to rent this "flivver."

How private pilots can misuse this airspace as can be seen from an analysis of the near-miss reports received by the FAA. Most involved at least one private plane. All—and everyone knows the reported number is a small fraction of the total near-miss—represent a deadly hazard to innocent people on the ground or on airliners.

I do not question the private pilot's "right" to fly, although I do not believe that public policy, the rights of the majority, or minimal commonsense should allow him to fly amidst the jets.

A partial answer is limiting private planes to certain airports or banning them entirely from places like Chicago's O'Hare or New York's Kennedy Airport. But, this just pushes the same number of small planes from one home base to another. They still use—and misuse—the same congested airspace over our urban areas. Such limitations do, of course, reduce air congestion to the immediate airport area, which is a help to people who are airport neighbors.

I propose that the Federal Aviation Agency use the power it has to restrict private planes and pilots over our large cities. This can be done by:

First, requiring small planes to have the same equipment we demand of airliners. Those small planes and pilots which can meet the tougher rules should be allowed to fly with the airliners. This means, basically, that all planes would be under positive control of the air traffic system.

Second, giving airliners an explicit priority in the skies, especially over our cities. Three hundred and fifty passengers in a jetliner should have rights, by virtue of their number, over two passengers in a private plane when it comes to using the airspace over large cities. The first step in giving this priority, however, is to be able to control all planes by the equipment and pilot standards recommended above.

Compared to automobile travel, what I suggest for airspace control is quite modest. Instead of having planes fly absolutely wherever they want, they would, over urban areas, fly specified routes, with equipment and pilot training like that protecting the majority of air passengers who fly the airlines.

If we let autos use our land surface as private planes use airspace, we would have cars driving across lawns, through stores and houses, under the single condition that they do not hit one another.

Private pilots, and their defenders in FAA, will howl at these restrictions. I already have impassioned and bitter letters from private pilots who want to "ground" me from further incursions into their area of private pilot "rights."

But, unless we "thinout" our airspace by allowing only pilots with higher minimum standards to fly planes equipped with basic navigation and communications equipment, under the same flight rules airlines must follow, we will have more and more near-misses, and their eventual product: midair collisions and planes plummeting down on unsuspecting citizens.

Increased traffic for already overcrowded skies is but one of the predictions apparent in the Speas study of Flushing Airport. That study fails dismally in its efforts to gloss over the flaws and shortcomings it detects at Flushing Airport, such as:

Dangerous proximity to one of the Nation's busiest air terminals.

"Extremely poor" subsurface soil conditions that would require millions of dollars and years of effort to overcome.

The hazards of surrounding obstructions.

Uncertain sources of funds for capital expansion and operations.

Threats of noise and air pollution.

Vocal and vigorous public objection to the airport.

It calls for spending $11 million to upgrade Flushing's facilities in 1969 dollars, which would actually be more like $12 or $13 million today.

Projections of the airport's success hang, to a large degree, on the city's nubulous plans to develop a college point industrial park adjacent to the site.

The following, in detail, are some of the reasons why Flushing Airport should not be expanded but instead closed; all are based on the Speas report itself:

At a time when the airways around New York City, and especially over Queens, are saturated, this study proposed quadrupling the number of small airplanes weaving in and out of the jet-congested skies.

It talks of improving and extending runways while one of the present strips is closed to all traffic because a Western Electric plant is being built at one end of it. Unless Western Electric puts its plant on hydraulic lifts and lowers it beneath ground level or plans to tear down its new plant, it will continue to be a barrier to traffic taking off into the northeast or landing from that direction.

Instrument operations are not feasible at Flushing, the report points out. This means that bad weather would force aircraft bound for Flushing Airport to divert to already congested LaGuardia Airport, making a bad situation worse.

Fill and drainage would cost more than $6 million—1969 dollars—because of extremely poor subsurface soil conditions. It would be necessary, according to the study, to institute a hydraulic overfill project to raise elevation. The overfill will settle for many years and will require periodic runway overlays. Place of

fill and construction of runways will require an estimated 3 years for completion.

The development program for the airport is limited by both operational and environmental factors which include the following:

First. The site offers limited area for development and poor foundation soils.

Second. The access road—20th Avenue—offers limited opportunity for realinement.

Third. Proximity to LaGuardia Airport results in less than ideal airspace availability.

Fourth. The rising terrain and existing development surrounding Flushing Airport present obstruction in excess of 100 feet in elevation within 2,000 feet of the site.

Fifth. There is a reticence to condemn additional property to achieve desirable runway lengths and ideal parallel alinement with LaGuardia Airport.

The airport operator has had to set a number of operating restrictions because of such problems as proximity to LaGuardia Airport, ground obstructions, and the lack of specialized equipment.

The report states:

Safe operation of the two airports (Flushing and LaGuardia) would require improvements in the form of visual approach aids.

The major control problem encountered in the operation of Flushing Airport is keeping arrivals of runway 36, the primary direction at Flushing, separated from arrivals on runway 31 or departures on runway 13 at LaGuardia. With the refurbished Flushing Airport attracting more and more itinerant traffic, generally unfamiliar with the field this situation will become more critical, according to the Speas study.

Flushing, as proposed, will not be able to handle the corporate jets and heavier twin-piston or turboprop aircraft, the study contends. This statement is made in the face of the projection that more than one-third of the aircraft to be based at Flushing would be business planes. In light of the corporate trend to jets and other heavier aircraft, Flushing would apparently be useless to one-third of its projected customer-users. What assurances are there that Flushing would not eventually be developed into a corporate jetport? Just because it is not written in any master plans now or because of some verbal denials, there still are no firm guarantees that this expansion program is not the first step in the development of a corporate jetport.

Revenue projections are shaky and appear based on imagination more than anything else. They envision such things as $7.56 million in State and Federal aid to expand the airport, increased fees and rentals, additional traffic and prosperous concessions such as a restaurant and parking lot.

Estimates of the economic impact of closing Flushing Airport are outrageously exaggerated. The city would lose less than $20,000 a year—a small price to pay to insure the safety of thousands, if not millions of persons.

The airlanes over Queens are saturated with traffic now and cannot take any additional burden. The swarm of planes makes the skies nearly as congested as the streets below.

Flushing is a primitive, non-tower airport located 2 miles from LaGuardia, one of the Nation's busiest terminals. As long as this airport exists, private planes will be drawn into an already overworked air traffic pattern over our city.

This report proposes spending $11 million—more than half of it to shore up extremely poor subsurface soil conditions—to expand the airport to handle more traffic in 2 hours than it now handles in a full day. It calls for quadrupling the present traffic, from approximately 54,330 annual operations to about 200,000.

The report tries to dismiss the noise problem created by Flushing and totally ignores the pollution question.

It says "noise generated by 98 percent of the activity—at an expanding Flushing airport—would be insignificant" and "essentially no complaints" are expected from area residents although the noise may "interfere occasionally with certain activities."

This leads me to think that the guiding philosophy behind this study was "My mind is made up, do not confuse me with the facts."

The researchers would have had to do their work in a soundproof booth not to be aware of the noise produced by the airport and the protests of its neighbors and victims.

They dismiss the noise problem by saying the din probably would be absorbed or drowned out by noise from LaGuardia and Whitestone Expressway.

Safety, however, is the most important factor. Because of the proximity to LaGuardia, aircraft using Flushing are relegated to a pattern tucked below that of the neighboring field. Straight-out departures are prohibited. Special turns and maneuvers to avoid LaGuardia traffic are necessary. Flushing's operations must conform to LaGuardia's active runway use.

The current airport operator is an aviation veteran with admirable credentials and a fine professional reputation. He is a vigorous advocate and practitioner of air safety.

But all his talent, efforts, and dedication cannot overcome the inherently unsafe situation of Flushing Airport. And what will happen after he is gone?

As long as this airport is allowed to operate, it will attract private pilots of varying degrees of experience and with widely diverse equipment on their planes. Bringing such pilots and planes into the New York City airspace and over congested residential areas is dangerous and cannot be made otherwise.

The presence of unknown traffic, such as the mail planes flying in and out of Flushing, operating in heavily congested air terminal areas such as LaGuardia presents a hazard to navigation and a threat of mid-air collisions.

Although the city has said it has no plans to expand Flushing Airport in the near future, it continues to harbor the thought, as evidenced by the Speas study. Pressures for expansion will continue as long as Flushing remains open.

Plans to improve and not close Flushing Airport represent a grievously disordered sense of public priorities. Any plans to modernize or expand it should be abandoned and a phaseout program designed and executed. The safety and welfare of the residents of Queens demand nothing less.

I will continue to oppose city-sponsored plans for the expansion of Flushing Airport and will use all the influence I have to see that no Federal funds are committed to maintaining or enlarging an essentially defective and unsafe air facility.

AMERICAN SOCIETY OF INTERNATIONAL LAW'S STUDY PANEL PROPOSES INTERNATIONAL MONETARY REFORMS

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. REUSS. Mr. Speaker, a distinguished panel of economists, lawyers and Government officials, sponsored by the American Society of International Law, last week issued a thoughtful report on long-term international monetary reform. The specific thrust of the study was to propose improved methods of adjustment among nations' currencies. The opening sections of the panel's report—the explanatory forward, the introduction, and an outline of the proposal itself—follow:

AMERICAN SOCIETY OF INTERNATIONAL LAW
PANEL ON INTERNATIONAL MONETARY POLICY

FOREWORD

The American Society of International Law decided in 1969 to convene a study Panel on International Monetary Policy, a panel which would be interdisciplinary in composition and forward-looking in concept. It focused its concern on the reforms which should be made in the international monetary and trade structure to deal with persistent imbalances in international payments and to provide for improved methods of adjustment among currencies.

The Panel's discussions of this subject have benefited by the interaction of international lawyers and international economists and by the preparation of a number of working papers by members of the Panel.

A principal result of the Panel's deliberations has been the conception and drafting of a "Proposed Economic Policy Coordination Amendment to the Articles of Agreement of the International Monetary Fund." The amendment is designed to help avert the sort of international monetary crisis which has gripped the world in recent months, especially since August of 1971. It is the belief of Panel members that, if the amendment were adopted, the International Monetary Fund and the governments of the world would be in a significantly better position to deal with problems of currency adjustment in a manner which would maximize international trade and the common welfare.

This report consists of an introduction of the problem, the text of the proposed amendment, and an extended commentary upon it. That commentary draws upon some of the working papers which Panel members were good enough to prepare, notably papers by Professor Andreas Lowenfeld, Mr. Frank Schiff and Professor Thomas D. Willett. The material drawn from their papers is acknowledged by footnotes in the body of the text.

The Panel's Report binds no member of the Panel, still less any institution with which he or she is or was associated. The Report does express the consensus of the deliberations of the Panel, a consensus reached through discussion and not voting. It does not necessarily express the views of every member. In no measure does it express the views of the American Society of International Law—which does not take positions as a Society on problems of public concern—or any other institution.

The members of the Panel (whose affiliations are noted only for the purposes of identification) are: Hans Aufricht, formerly of the International Monetary Fund; Bruce Bassett, Columbia University; Murray J. Belman, of the District of Columbia Bar; Roy Blough, Columbia University; David E. Bodner, Federal Reserve Bank of New York; Michael Bradfield, United States Treasury (Rapporteur of the Panel); Mitchell Brock, of the New York Bar; Richard N. Cooper, Yale University; William B. Dale, International Monetary Fund; Thomas L. Farmer, of the District of Columbia Bar; Richard N. Gardner, Columbia University School of Law; Dr. Hendrik S. Houthakker, Harvard University; Robert H. Knight, of the New York Bar; John M. Letiche, University of California (Berkeley); Cynthia C. Lichtenstein, Boston College Law School; Andreas F. Lowenfeld, New York University School of Law; Lawrence C. McQuade, PROCON Incorporated; M. C. Miskovsky, of the District of Columbia Bar; John Rhinelander, Department of State; Walter S. Salant, The Brookings Institution; Frank W. Schiff, Committee for Economic Development; Fred B. Smith, Syracuse University Research Corporation; Stanley S. Surrey, Harvard Law School (Chairman of the Panel); Walter Sterling Surrey, of the District of Columbia Bar; Thomas D. Willett, Cornell University; and Alan W. Wolf, United States Treasury.

This and many other study panels of the Society are funded by a grant of The Ford Foundation. On the Society's behalf, I should like to express its deep appreciation and that of the members of the Panel to the Foundation.

STANLEY S. SURREY,
Chairman, Panel on International Monetary Policy.

PART I—INTRODUCTION

The Panel on International Monetary Policy of the American Society of International Law first met at a high point in international monetary cooperation. On that day—September 26, 1969—the Board of Governors of the International Monetary Fund approved a resolution calling for the allocation of $9.5 billion Special Drawing Rights over a period of three years beginning on January 1, 1970. Yet it was clear even then that the international monetary system was undergoing extreme strains and needed fundamental changes to function effectively. In a relatively short span of time preceding the first meeting of the Panel two major currencies—the pound sterling and the French franc—had been devalued; after a major crisis, an extensive revision of the gold market had been devised over a weekend, and two major outbursts of speculation in the German mark, accompanied by closed markets and massive movements of funds, had occurred. While the technical problem of providing adequate liquidity for the system had been solved, it was widely agreed that the international monetary system as a whole was not working as it should.

President Nixon's actions on August 15, 1971, suspending convertibility of the dollar into reserve assets and imposing a 10% surcharge on imports, made it clear to all that the international monetary system must be reconstructed with major changes. From a lawyer's viewpoint, the system was indeed in grave difficulty. Two fundamental provisions of the Fund Articles—Article IV on par values and exchange rate margins, and Article VIII governing convertibility—were deemed by a large number of members to be so out of touch with economic realities that their legal obligations had to be ignored. The General Agreement on Tariffs and Trade faced similar difficulties as its provisions prohibit surcharges but permit quotas which tend to be even more restrictive.

With the Group of Ten agreement on a new pattern of exchange rates which was reached in Washington on December 18, 1971, the immediate job of finding an interim solution to set the system working again has been done. The task of devising a reformed system will take time—probably some years, judging from the complex issues involved. The Panel's efforts have been directed to this task of long-range reform in the hope that a contribution could be made to reconstruction of the international economic-legal system which is so crucial to world prosperity and security.

The Panel started from the premise that the system had worked well but was now in need of change to meet the requirements of a greatly changed world. It was recognized that many of the key objectives of the Bretton Woods planners have been achieved—the years since World War II have seen an unprecedented reduction in tariff barriers and in quantitative restrictions. They have also seen the elimination of almost all exchange restrictions among industrial countries (even, in most cases, on capital account), and restoration of external convertibility. These developments played a major role in permitting an unprecedented expansion of world trade—from $55 billion in 1950 to $311 billion in 1970.

Yet today's world is far different from that in which the Bretton Woods planning went forward. August 15 was not only a demonstration of American economic power, it was also an explicit recognition that American dominance had been successfully challenged by the growth of other centers of great wealth and economic strength: the European Common Market and Japan. Yet, at the same time that this welcome diffusion of economic power has occurred, there has also been a burgeoning growth of restrictionism that has put some of the fundamental precepts of Bretton Woods in full retreat. It would be fair to say that the Common Market—particularly its common agricultural policy, its growing framework of preferential arrangements, and its restrictions on Japanese imports—has not been as outward looking in trade matters as had been promised by its most fervent supporters at home and abroad. Japan, the other great industrial center, can hardly be said to have been following liberal trade policies. Regional groupings are growing up in many areas of the world, which may also turn out to have a restrictionist bias. In many countries—both developed and less developed—there is increasing resort to import substitution policies and governmental subsidies for exports.

The actions taken on August 15 were also an expression of a widespread feeling in the United States that the growing restrictions and export incentives employed by other countries had resulted in a trading system that was biased against this country. This feeling reinforced growing domestic pressure for restrictions on imports, and numerous products have been put under voluntary or mandatory quotas—most recently woolen and man-made textiles. In addition, the countervailing and anti-dumping duty laws have been given more vigorous enforcement and, of course, the President imposed a 10% surcharge on imports, as a balance-of-payments measure. Further evidences of this trend are the favorable votes in the Senate during the debate on the Revenue Act of 1971 on quota and surcharge authority, on authorizing discrimination in the application of the Job Development Credit and on authority to apply the excise tax on automobiles solely to foreign vehicles. These actions demonstrate that there is increasing support in the Congress for more restrictions on imports. Not only has there been an increasing pressure for restrictions on imports, but Congress has also recently authorized the establishment of Domestic International Sales Corporations (DISC) to give a tax incentive to increase exports.

Restrictions have also appeared in the field of capital movements. In the United States various selective measures to limit capital outflows have been imposed—the Interest Equalization Tax, the Foreign Direct Investment Program, and the Federal Reserve Voluntary Restraint Program for banks and other financial institutions. Recently Europe and Japan resorted to extensive programs of restricting capital inflows as a means of limiting or preventing appreciation of their currencies.

The tendency toward increasing restrictions on international trade and payments, already evident in 1969, has today become a matter of serious concern for both economic and political reasons. In many quarters fear is being expressed that a trade war will develop and that the Western World will break up into hostile regional monetary and trade blocs employing various kinds of restrictive devices to assure inter-bloc balance in trade and payments relationships—with an eventual adverse impact on political relationships. The possibilities of this eventuality are real, although they have diminished as a result of the Group of Ten agreement on exchange rates. To assure that further restrictions do not develop, it will be necessary to make mutual adjustments that will lay the foundation for bringing the texts of international agreements into conformity with new realities and new objectives. Some fundamental changes of perception will be required, and it will take more than technical devices such as wider margins and more freely movable parities to make the system work smoothly.

The international monetary and trading system worked fairly well and with a minimum of consultation on or coordination of countries' economic policies only so long as the United States and the rest of the world were prepared to accept large and continuing international payments imbalances. After many years of U.S. deficits, and a severely declining trade account, it has become abundantly clear that continuation of the imbalances is neither politically nor economically acceptable to this country and its trading partners.

Yet it is not clear that the free world economy can function without restrictions unless a substitute is devised for the role the United States has played over the last thirty years. As Professor Richard N. Gardner has stated, American post-war planners "were prepared to devote a considerable amount of American wealth, influence, and energy toward the achievement"[1] of a freely flowing system of international trade—and they in fact did so over the ensuing three decades. But, if instead, all countries seek to maximize exports and minimize imports, can the world economy continue to function or will it fall into the disarray that characterized the period between the two World Wars? The Panel's judgment was that the effective functioning of a highly integrated world economy utilizing a system of relatively stable but movable exchange rates with a minimum of restrictions on trade and payments requires a fundamental commitment to a high degree of consultation on and coordination of domestic economic policies aimed at fairly-shared growth while avoiding persistent balance-of-payments surpluses or deficits.

[1] Gardner, Sterling-Dollar Diplomacy (1969), page 12.

The task could be made easier by the very recent development of a less reluctant attitude toward the adjustment of unrealistic exchange rates as well as by the agreement on wider margins for exchange rate fluctuation. But this would not eliminate the need for close consultation and coordination of economic policies. The difficulties of reaching agreement on exchange rate realignment clearly show that the same problems involved in reconciling differing national objectives as part of coordinating economic policies also exist with respect to the setting of exchange parities.

The Panel, composed of lawyers and economists, turned its attention to this problem of improving the international adjustment process in the hope that its particular perspective—a concern for procedure and the techniques of institutional development—could prove useful both in pointing out what is wrong in present adjustment processes and in finding a method of helping the system to function more smoothly in the future. It is the Panel's conviction that success in this field is crucial to the maintenance of a liberal non-discriminatory world trading system.

The Panel concluded that reliance on *voluntary* cooperation and on consultation on countries' economic policies—a procedure that has achieved a considerable degree of sophistication and refinement in such institutions as the International Monetary Fund and the Organization for Economic Cooperation and Development—is no longer satisfactory. It set as its objective the development of additional techniques for closer consultation on and coordination of economic policies affecting countries' balances of payment and for obtaining full compliance with the judgment of the international community on the policies that should be followed.

As a result of its work toward this objective, the Panel drafted a proposed amendment to the Articles of Agreement of the International Monetary Fund. In summary, the amendment—the text of which is presented in Part II of this paper—propose a new organizational form for accomplishing economic policy consultation and coordination within the Fund. Panels would be established in the Fund composed of Governors of the Fund representing countries whose economies are highly inter-related. Each panel would conduct a general review of international economic trends affecting its member countries and would annually review each member's economy as it affects others in the group. The panel could make recommendations of an informal nature to a member and, where the situation warranted, a special review could be conducted which could result in formal recommendations where a country's economy was having an adverse impact on others. The panel would have the power to recommend to the Board of Governors that a specific currency be allowed to float, that a specific new par value for that country's currency be set at a particular time, and that export subsidies or import restraints be allowed. The panels could also recommend to the Board of Governors that joint measures be taken by all Fund members to induce compliance by surplus or deficit countries which have failed to follow formal panel recommendations. These joint measures could consist of a tax to be placed on imports of the goods or on the reserves of the member concerned if the problem was its persistent surplus, or limitations on new financing in the case of a deficit country.

The details of the amendment are explained in Part III of this paper. It must be emphasized what the amendment is not. It is not intended to be a definitive solution to all of the problems raised. On each of the provisions there were varying views on the correct solution to the problem posed. The amendment text is intended as an illustration of some of the choices that could be made. Other solutions raised in the Panel discussion are described in Part III. Moreover, it is not intended as an amendment in the formal sense of its being a provision that could be inserted without more into the existing Fund Articles of Agreement. While broadly assuming the existing structure of the Fund, including its decision-making bodies and voting system, no attempt has been made to conform the proposed Amendment to the Articles of Agreement of the Fund.

PART II—THE PROPOSAL

The following text sets out in full the proposed amendment to the Articles of Agreement of the Fund.

Article I—Purposes

(a) The members of the Fund agree that their economic policies and measures often have significant effects on other members and the functioning of the international economy through their impact on members' external balance of payments positions.

(b) Accordingly, the members recognize the need for closer consultation on their economic policies and measures and for coordination of policies and measures having a significant effect on the balance of payments positions of other members.

(c) In order to achieve this objective, the Fund has a responsibility to make recommendations to members to assure a smoothly functioning international balance of payments adjustment process consistent with the purposes of the Fund and, as may be necessary, to offer incentives and require members to apply disincentives in order to achieve compliance with such recommendations.

(d) The members agree that strengthening the opportunities for consultation about and coordination of members' economic policies and measures should be accomplished without impairing member countries' choice of economic priorities or social systems.

Article II—Organization

1. *Consultative Panels.*

(a) A group of members who face common economic problems and whose economies are so interrelated that an individual member's actions have a highly significant impact on other members of the group may apply to the Board of Governors of the Fund to form a consultation and coordination panel.

(b) Members who are participants in regional international agencies operating in the economic and financial field may, with the approval of the Board of Governors, register such agencies as panels for the purposes of this Agreement. Only Fund members may participate and vote in actions taken by such qualifying panels when acting in their capacity as panels under the Agreement.

2. *Rules Governing Panels.*

(a) Each member may have one representative on a panel. Representatives shall be Governors or alternate Governors, or temporary alternate Governors.

(b) Each panel may choose a representative who shall participate without vote in the meetings of all other panels.

3. *Voting.* Each Governor, alternate Governor, or temporary alternate Governor on each panel shall exercise the same number of votes as the country he represents has allocated to it.

4. *Role of Managing Director.* The Managing Director (or his representative) shall participate in each of the panels. The Managing Director shall have no vote.

Article III—Economic policy reviews and recommendations

1. *Periodic Reviews.*

(a) Panels shall periodically conduct a general review of international economic trends as they affect panel members and of events that may have significant effects on the international economy.

(b) In particular, each panel shall review the functioning of the economy of each member of the panel annually for the purpose of examining the effect of fiscal, monetary, income, trade, aid, capital flow, balance of payments and other policies of that member on other members and on the functioning of the international economy as a whole.

2. *Recommendations.*

(a) As a result of reviews conducted under section 1 of this Article, panels may make informal recommendations with respect to members' measures, goals, or policies affecting the balance of payments position of other members.

(b) As a result of reviews conducted under section 1 of this Article, panels may, with the approval of a majority of the total voting power of the panel, initiate a special review under Article IV of a panel member's economic policies. A special review initiated in this manner need not meet the reserve change criteria of Article IV, Section 1.

Article IV—Special reviews

1. *Increases or Decreases in Reserves.* Panels shall hold a special review of the economic policies of a panel member whose monetary reserves increase or decrease by more than X% per month for Y successive months. This review shall focus primarily on the causes of the increase or decrease, the impact of the increase or decrease on the functioning of the international economy and the prospects for the continuance of the increase or decrease.

2. *Recommendations.* As a result of the review provided for in this Article, the panel may take the following actions:

(a) A panel may suggest specific areas of action to be taken to remedy the increase or decrease in reserves or to correct any other situation having an adverse impact on the functioning of the international economy.

(i) Such action may take the form of informal suggestions directly to the panel member or members or formal recommendations to the Board of Governors of the Fund.

(ii) Formal recommendations must be approved by a qualified majority vote of the total voting power of the members of the panel. Formal recommendations shall not become effective until approved by 70% of the total voting power of the Fund.

(b) By a qualified majority vote of the total voting power of the panel, a panel may recommend to the Board of Governors that a member or members be released from the obligation of Article IV, Sections 3 and 4, to assure that exchange transactions shall not differ from parity by more than the permitted margin, for such period of time as the panel considers desirable, and subject to any necessary safeguards to promote the purposes of Article I of this amendment and the purposes of the Fund. Unless within 24 hours such authorization is opposed by 50% of the total voting power of the Fund, no further authorization shall be required before the member or members may take the recommended action. A panel may at any time recommend to the released member or members that it or they should promptly propose a new par value for adoption by the Fund and may also recommend the specific par value which should be adopted. Such a recommendation must be approved by a qualified majority vote of the total voting power of the panel.

(c) Notwithstanding the provisions of any other agreement, a panel may recommend to the Board of Governors, by a qualified majority vote of the total voting power of the panel, that a member be authorized to subsidize exports or restrict imports on such terms and conditions as the panel may specify, but such subsidy or restrictions shall be applied only to the degree necessary to eliminate the excessive decrease in reserves.

(i) No subsidy or restriction pursuant to a panel recommendation shall enter into effect

until approved by Governors exercising at least 70% of the voting power of the Fund.

(ii) Any authorization granted hereunder shall be reviewed periodically by the panel recommending the authorization to determine whether it should be revoked.

(iii) A panel may revoke an authorization by a qualified majority vote of the total voting power of the panel.

Article V—Compliance procedure

1. *Further Review.* In any case in which a panel has made formal recommendations and the member does not carry out the panel recommendations and the member's external payments position continues to affect adversely the functioning of the international economy, there shall be a further special review of that member's adjustment policies. A decision to conduct a further special review under this Article shall be made by a weighted majority vote of the panel members on the basis of a proposal by the Managing Director.

2. (a) *Action With Respect To Surplus Countries.* As a result of the review provided for in section (1), the panel may, by a qualified majority vote, recommend to the Board of Governors in the case of a surplus member:

(i) that all Fund members levy a charge on all purchases of goods from the members concerned;

(ii) that the Fund impose a charge on the member concerned on all reserve increases above a base figure set by the Board, and such charge shall be deducted from the member's holdings of Special Drawing Rights.

(b) The Board of Governors may adopt a resolution requiring all members to impose a tax under Section 2(a)(i) above or to authorize the Fund to impose a tax under Section 2(a)(ii) above only by 70 percent vote of the total voting power of the Fund.

3. *Action With Respect To Deficit Countries.* In the case of a deficit country, the panel may recommend, by a qualified majority of the voter power of the panel, to the Board of Governors, for adoption by it by a vote of 70% of the total voting power of the Fund, any of the following steps:

(i) a declaration of ineligibility to use the resources of the Fund;

(ii) a prohibition on new financial assistance by members inconsistent with any Fund action;

(iii) a prohibition on members' renewal of existing financial assistance as it matures.

NEWS ARTICLE POINTS OUT THE FRAUD AND INEQUITY OF THE NIXON ECONOMIC PROGRAM

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mrs. ABZUG. Mr. Speaker, an item appearing in this morning's Christian Science Monitor provides new evidence that Richard Nixon's economic stabilization program is a fraud.

It is a fraud because the only thing that is really being "stabilized" is the wages of working men and women. Prices and rents, while nominally subject to stabilization, are pretty much allowed to run rampant, thus allowing businessmen to further fatten their wallets at the expense of the salaried and the fixed-income people of this country.

The article follows:

[From the Christian Science Monitor, Feb. 24, 1972]

LEAKAGE IN PRICE CONTROLS HITS CONSUMER

(By David R. Francis)

WASHINGTON.—In ancient Babylon, the ruler Hammurabi commanded that anyone who disobeyed his orders fixing prices and salaries was to be drowned. In the Middle Ages, craft guilds sometimes banished or pilloried price gougers.

And yet even such drastic measures have failed to make wage-price curbs dramatically successful, historians say.

So in modern, prosaic Washington, the ruler Nixon and his men had no great expectations when he launched his own wage-price controls. The most stringent penalties, after all, are fines of up to $5,000 per violation, restitution ordered by the courts, and, under some circumstances, suits for treble damages.

Administration officials still emphasize the voluntary nature of the controls—even as the Cost of Living Council insists that 81.8 percent of the consumer-price index remains covered by the controls, with 18.2 percent uncovered.

(Those critics who claim that the controls ought to have more "bite" point out that the 18.2 percent uncovered includes taxes, food in the form of raw agricultural produce, and the costs of buying a home, water and sewer rates, using the postal system, sending children to colleges and private schools, and mortgage interest.)

Nevertheless, the economic stabilization program (abbreviated to ESP), has had some impact; it is said:

It has satisfied the public's desire for some direct government action against inflation. This may boost President Nixon's chances for re-election, depending on results.

It has reduced public expectations for inflation.

That change is reflected in a dramatic drop in interest rates in recent months. To some extent the "inflation premium" has been knocked out of the rates.

But the man in the street does not always appreciate that. Even C. Jackson Grayson Jr., chairman of the seven-member Price Commission, cautions that in the past month or six weeks some of this psychological gain has been lost.

Some people, he said, do not understand that in the current Phase 2, unlike the freeze of Phase 1, prices were expected to rise somewhat. Thus some people were disappointed when they noticed various price hikes.

Chairman Grayson cautions that it may be April before the impact of Phase 2 controls on inflation is clearly seen.

"Controlling a trillion-dollar economy," he says, "is a little like steering a battleship. You throw the helm hard over, and nothing happens. The momentum forward fights the rudder. Then, very slowly, the change of course becomes visible."

A recent public-opinion survey commissioned by the Wall Street Journal found 54.7 percent of 760 adults quizzed thought price controls were not working and 48.7 percent of them figured the same for the wage controls.

Yet, said Mr. Grayson in an interview, many people no longer regard a high rate of inflation as inevitable.

Public attention has been directed to the need to increase productivity (output per man-hour) to dampen inflation.

CONTRADICTIONS HIGHLIGHTED

"I view this as an important focus this program has given the country," commented Mr. Grayson.

It takes some 600 civil servants to grind out the multitudinous rules and decisions of the Price Commission. And the Pay Board has another 130 officials mostly poring over the details of wage contracts. The two bodies even have their own offset press, on the fifth floor of the nondescript, just-completed, eight-floor commercial office building that houses the new flock of extremely hard-working bureaucrats. The press churns out news releases and other printed documents at a great rate.

Around the nation, some 3,000 employees of the Internal Revenue Service are working full time to see that the stabilization controls are enforced. Another 13,452 revenue agents and 6,094 revenue officers help in performing the duties that are the modern equivalent of Hammurabi's enforcement officers.

To a lesser extent, the wage-and-price control program has highlighted contradictory inflationary elements in the nation's economic policies.

Meat-import quotas, for instance, were in the headlines last week. The limitation on imports tends to boost meat prices. Thus the Cost of Living Council—the body at the head of the wage-price-control pyramid—has been considering allowing more meat imports to prevent meat prices from rising further.

Economists have also lately spoken of the inflationary impact of oil- and textile-import quotas, the Davis-Bacon Act requiring that the government pay "prevailing wage rates" on government-backed construction projects, laws protecting the domestic shipping industry, etc.

FULL REVIEW URGED

"This is an appropriate time to examine afresh all of the federal legislation, rules, and regulations which interfere with competition, unduly raise prices, or otherwise give our economy an inflationary bias," a former Assistant Secretary of the Treasury, Murray L. Weidenbaum, told a Senate subcommittee Jan. 19.

In an election year, however, economists have little hope that the administration or Congress will do much about politically sensitive "structural" defects in the economy.

And they are skeptical about the direct impact of the economic-stabilization program on the rate of inflation.

After surveying dozens of economists, the Wall Street Journal led a story on the results: "Many economists view President Nixon's venture into wage-price controls much the way Shakespeare once viewed life: full of sound and fury, but signifying very little indeed."

With high unemployment and much slack industrial capacity, economists had expected the rate of inflation to decline this year regardless of whether controls were imposed or not.

The Price Commission's Dr. Grayson, on a year's leave-of-absence from being dean of the business school at Southern Methodist University, says he is "optimistic" that the program will work—that is reduce the rate of inflation by half to a 2.5 percent annual rate by the end of this year.

VOICE OF DEMOCRACY CONTEST

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. BEGICH. Mr. Speaker, Rose Mary Petranovich, a senior attending East Anchorage High School, recently participated in the Voice of Democracy contest conducted by the Veterans of Foreign Wars and its ladies auxiliary.

Miss Petranovich was among the

nearly 500,000 high-school students who competed in this contest by writing a speech on this year's theme, "My Responsibility to Freedom."

As you read Miss Petranovich's poignant contribution to the Voice of Democracy contest, which I am proud to insert in today's RECORD, I believe you will readily see why her speech was chosen to represent the State of Alaska in this competition.

Her theme follows:

MY RESPONSIBILITY TO FREEDOM

(By Rose Mary Petranovich)

As I walk down the road of life, my feet tire and I grow weary. I fall, but I get up. The road abounds with cracks, but I trudge on. I see blotches of dried blood spilt by those before me. A sign comes into view. It bears a warning: Obstacles Ahead. I cross a wobbly bridge whose wood components have rotted with time. The bridge needs reinforcement. An idea formulates in my mind. I must strengthen the bridge so that others may cross, but I'm not strong enough. I seek help. I convey my thoughts to other travelers. Together we repair the bridge. Then while walking on it, someone slips off. It was a mistake not to have put up a guard rail. The next bridge will have a guard rail. Pausing at the top of a hill, I catch sight of a pool below. I hurry to the pool only to find that it cannot quench my thirst. I look back. It seems I've covered little ground. I look ahead. I have far to go. I continue to walk.

Ideals often conflict with reality. Man has dreamed of a utopia; he has wandered in search of a perfect place. He has encountered problems and has utilized his knowledge to cope with them. Man has made a wealth of mistakes, and he has learned from each one.

The past must be present to find a future. Happenings of the past cannot be ignored—and one cannot turn away from the present depending on the future to hold the answers. By taking past events into consideration and by investigating the present situations, one can shape the course of the future.

Change occurs. Established systems cannot always adapt to an ever-changing society. Governmental services may be faulty. They may not meet the needs and desires of the people. Patterns for living call for improvement. Things that are not all good should not simply be discarded. They can, perhaps, meet basic needs and provide a form of security until something better comes along. Methods can be improved; new ways can be tried. Foundations can be built up. It is not necessary to tear down—totally rejecting the present and seeking something right for all purposes. That something may not be found.

Expression of public opinion is vital. People reflect approval or dissatisfaction. People offer challenges and in doing so, contribute. This ensures the evolution of a more efficient and productive society.

Experimental crops of new ideas are planted. The results are harvested. I owe my spore of thoughts to other people. I must also listen to them. My seed of ideas may not grow. Proper conditions may not prevail. There are limitations to its growth, as there are limitations to freedom. My seed just might germinate. It's worth a try, and that is my responsibility to freedom.

POLLUTION, POLITICS, AND PROTEST

HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. ASPINALL. Mr. Speaker, on October 6, 1970, Charles L. Gould, publisher of the San Francisco Examiner, San Francisco, Calif.; presented a speech at the National Association of Real Estate Boards in San Francisco in which he discussed the environmental controversies.

I have been greatly concerned over the lack of balance in the study of current environmental issues, for our confrontation has led us to emotionalization rather than to reason and responsibility. Mr. Gould has, in the following speech, put the various aspects of the current environmental revolution into a new perspective. In the interest of formulating the best plans and programs relating to our environmental questions, I urge my colleagues to study, with care, the following remarks:

POLLUTION, POLITICS, AND PROTEST [1]

(By Charles L. Gould [2])

(NOTE.—Discussion open until March 1, 1972. To extend the closing date one month, a written request must be filed with the Executive Director, ASCE. This paper is part of the copyrighted Engineering Issues—Journal of Professional Activities, Proceedings of the American Society of Civil Engineers, Vol. 97, No. PP1, October 1971, Manuscript was submitted for review for possible publication on June 16, 1971.)

I was present a few weeks ago when Dr. Joseph Boyle made an impressive address to this audience on the environmental problems of our times. In addition to other charges, Dr. Boyle told an appalling story of hundreds of workers in a California nylon processing plant who had contracted cancer—as a result of their work—and who had been retired to a company sick farm to live out their remaining few years.

Following the luncheon address, I asked Dr. Boyle for the name of the offending company. I felt a story of such horrendous proportions should be reported in our newspapers. Dr. Boyle was pleased with my interest and regretted that he did not have the specific information with him. However, he assured me that he would direct it to me when he returned to Los Angeles. I followed this request with a long letter restating my interest in exposing the contemptible conditions of the nameless company. That was more than two months ago. Thus far I have received no answer. Please understand—I do not questiton Dr. Boyle's sincerity. I do not question that he heard the story he reported to this audience. Such stories are in full flood. And they tend to be expanded with each retelling.

We in the press are not without sin in this regard. When a man of science makes a statement concerning disturbing conditions within our environment, too often the statement is quoted without obtaining complete and unequivocal confirmation.

The recent tuna fish scare is a case in point. The authority for the report on mercury contamination was a department of the United States government. Thus, the story carried appropriate credentials Subsequent investigation revealed, however, that all fish contain some traces of mercury. Tests made on fish frozen half a century ago were revealed to contain more mercury than the levels reported in the recent scare.

The current issue of Fortune Magazine carries an impressive report on various forms of mineral pollution. Deep in the story is the statement that nature releases about 5,000 tons of mercury into the environmental chain each year. That equals—or surpasses—man's record in this regard.

Those who have said Lake Erie was so contaminated that fish could not live in it failed to check with the fish. Last year the catch was one of the largest in the history of the lake.

The public reaction to yesterday's tragic oil spill in San Francisco's harbor is reminiscent of the tremendous outcry when the tanker Torrey Canyon poured millions of gallons of oil into the Atlantic Ocean off the coast of England. It is reminiscent, too, of the very proper public concern when the channel at Santa Barbara was covered with tens of thousands of gallons of raw oil from a ruptured drilling rig. In the Torrey Canyon case you will recall that some scientists said the beaches of France and England might be oil-polluted for half a century. At the time of the Santa Barbara disaster, the charge was widely circulated that the harbor's marine life would be adversely affected for years to come and that some beaches might be unusable for a dozen years. Happily, the actual results were not as dire as those predicted. Nature cleared most of the French and English beaches in less than six months. Ironically, those that were treated with cleansing chemicals took longer.

Three months ago the Examiner unearthed a lengthy and costly study made by university scientists on the effects of the Santa Barbara oil spill. We published the report at that time. Happily, it reappeared again this past weekend on one of the wire services. This scientific report made it clear that early reports of lasting damage to the environment as a result of the Santa Barbara oil spill were grossly exaggerated. It went on to point out that natural oil seepage had been present in the channel for hundreds of years. In fact, it showed that spills traceable to man during the 17 months from the start of the major eruption totaled 7,100 barrels while natural seepage for the same period exceeded 20,000 barrels. This is not intended to minimize in any way the seriousness of the oil spill in San Francisco harbor . . . or elsewhere. It is lamentable that it occurred. None regrets the disaster more than the oil company that owns the offending ships.

I do wish to make it clear that the spill is a passing tragedy. It will be erased. Those of my age well remember the daily reports during the first months of World War Two when German subs were sinking an average of two oil tankers each day along the Eastern Coast of the United States. Hundreds of miles of beaches were black with oil. Fortunately, time and nature worked complete cures.

Now that I have moved into the past, let me try to put some other aspects of the environmental revolution into a new perspective by attempting to flesh out some cold statistics from the record books of other years.

ITEM ONE

It is approaching dawn on the morning of July 15, 1347. . . more than 600 years ago. We approach the harbor of Genoa, Italy. The tortured cries of a small child break the morning stillness. The baby's perspiring face is covered with festering sores. The squalid room reeks with the ugly odor of the open blotches. The mother lifts the small child and gently bathes its fevered face. But it will not be calmed. An hour later the cries of the child are no more but the sorrowful sobbing of the parents is a poor exchange. The baby is dead. Carried by rats in the cargo of a Levantine ship from Constantinople, the black plague has found a home in continental Europe. Before the day is out a dozen citizens will be stricken. Before the week is out, a thousand deaths will be reported and frightened peasants fleeing the black death will carry the seeds of the putrid pestilence to Rome and Naples and a hundred other communities throughout the area.

In less than a month, the breath of death will sweep into Spain and France and Bel-

[1] Presented at The National Association of Real Estate Boards, San Francisco, October 6, 1970; Sacramento Rotary Club, October 15, 1970; San Diego Chapter, Freedom's Foundation, October 28, 1970; and San Francisco Rotary Club, January 19, 1971.

[2] Publisher, San Francisco Examiner, San Francisco, Calif.

gium. It will leap the English channel and spread from port cities to the verdant countryside. Day after day for five long years, a thousand cities throughout Europe will echo to the moans of the dying and the sobbing of the bereaved. An endless parade of heavily loaded wagons will rattle over the cobblestones carrying their grim cargoes to the human dung-heaps on the outskirts of the villages. The stench of death is everywhere and hope has fled from the hearts and homes of the rich and poor alike. Before the dread pestilence has run its course—according to the Encyclopedia Brittanica—it will have claimed the lives of more than 25 million men, women and children. One of the most terrifying tolls in human suffering in the history of the world.

The proper amount of DDT properly used in the proper places in the proper manner might well have destroyed the germ-carrying fleas and rodents that brought the Black Death to Europe in the 14th century.

ITEM TWO

The scene shifts to another world and another century. It is March 17, 1877. The poor peasants of Lanchow, a small city in the foothills of the KunLun Mountains, almost in the shadow of the Great Wall of China, rejoice as they are greeted by a bright sun for the tenth day in a row. It has been a long, cold winter with heavy snows and the promise of an early spring and early planting is reason for happiness. Their joy, though, is short-lived. An ominous roar from the valleys and gorges high in the mountain is a signal for fear. The unseasonable hot spell has melted the mountain snow and as giant ice dams give way, torrents of water breach the banks of the Hwang-Ho River. First an inch, then a foot, then a yard . . . higher and higher it creeps until it crests at more than 30 feet above normal. Like a tidal wave it sweeps all before it. Even as the people of Lanchow are burning incense to their ancient gods, the raging waters carry them, their animals, and their homes to oblivion.

Yianching, Pinghiang, Weinan and a hundred other villages are devastated and destroyed as the flood waters cover more than five million acres of lowland in its pell-mell race to the Yellow Sea.

None will ever know the total toll of the 1877 excursion of the rampaging Hwang-Ho River. Famine and pestilence followed in the wake of the flood waters and the Encyclopedia Brittanica puts the death toll at more than nine million men, women, and children.

The proper water-retention dams in the proper places at the proper times might have saved many of these nine million lives.

ITEM THREE

Again these shifts. The year in 1846. The month is October. The place is Ireland. The potato crop has failed. A fungus infection that kills the root fruit of the tuber has swept across the tiny nation from Londonderry in the north to Cork in the south. There were empty larders and empty hearts and empty stomachs in Ireland that year. And as famine marched through the towns and villeges, death marched with it. Men, women, and children weakened and died. A thousand. Ten thousand. Half a million. A million. And still the toll mounted. The Encyclopedia Brittanica reports that between two and three million persons perished in the great potato famine.

The proper pesticides and fertilizers used at the right time in the right way in the right amounts might have prevented the scourge that swept across the Emerald Isle.

ITEM FOUR

In four weeks last autumn, raging fires blackened millions of acres in California. Tens of thousands of trees were destroyed, hundreds of homes were ruined.

I do not say this so—but—is it not conceivable that the removal of a few hundred trees at the proper time in the proper places to provide fire breaks might have saved some of the precious treasures that were destroyed?

Now, let me make it clear that I do not make a sweeping endorsement of DDT. I raise no clarion cry for more dams or more fertilizer or more pesticides. I do not wish to eliminate any trees. I fight to preserve them. Mine is a cry for reason. It is a cry for truth and logic. It is a cry for study. It is a cry for action based on research rather than emotions.

You in this room today can be a powerful force for reason and responsibility in these matters. Speak out. And speak up. Urge your representatives to make all possible speed in the crusade for environmental betterment . . . but urge them first to formulate plans and programs based on sound and serious study.

Dr. W. T. Pecora, Director of the United States Geological Survey, puts some aspects of our burgeoning pollution problems into a new perspective when he states that "nature is the worst offender." Contrary to the popular belief that nature eternally strives to restore herself to purity, Dr. Pecora documents the tuth that compared to mankind, "Mother Nature is a very messy housekeeper." In the last five years we have been exposed to countless reports testifying to the many ways that man is damaging the earth through the careless and casual disposition of waste salts and sodium and calcium compounds. Dr. Pecora raises some scientific and nonscientific eyebrows when he submits evidence that rainfall each year pours more than 4,000,000 tons of table salt on the United States . . . plus 2,500,000 tons of sodium sulphate and 36 million tons of calcium compounds.

While not minimizing the polluting effects of noxious gases emitted by automobiles, Dr. Pecora pointed out that three volcanic eruptions in the past 90 years—Krakatoa in 1883, Mount Katmai in 1912, and Iceland's Helka in 1947—ejected more dust, ashes and gases into the atmosphere than has all of mankind since the beginning of time.

In my own research for today's remarks I developed some rather remarkable statistics about land, people, and congestion. First, on the subject of land. Including Alaska and the Hawaiian Islands, there are slightly over 2¼ billion acres of land in the United States. However, more than 750,000,000 acres of this total is owned by Uncle Sam. One of every three acres throughout the width and breadth of our 50 states is in Federal ownership. An additional 150,000,000 acres are owned by city, state, and county governments.

Uncle Sam owns 96% of the land in Alaska; 86% of the land in Nevada; 66% in Utah, and 64% in Idaho. Here in California well over half the land is owned by federal, state, or county governments. I do not intend to shock or disturb you with these figures. I do not deplore this massive ownership of land by the government. I do, though, deplore—and I do protest—the charges made by some conservationists that ruthless business interests are gobbling up all the land in our nation and depriving our people of adequate park and recreational areas. Other self-proclaimed experts present frightening reports on the imminent threat of famine in our nation if population growth is not brought to a grinding halt.

While I am not a champion of unlimited population expansion in our nation . . . or in the world, I believe it is incumbent on responsible authorities to seek out the truth so that predictions can be based on facts rather than fears. For example, while our nation's population continues to rise, it should be made clear that the present birth rate is the lowest in the history of the nation and has actually declined 25% in the last ten years.

CONGESTION

In this age of instant communications most of us are trained to have an emotional knee jerk reaction to certain words and phrases. One is the word congestion. In environmental discussions congestion normally prompts a mental image of millions of Asiatics crowded together in conditions of abject squalor.

While it is true that every large city in Asia—and, in fact throughout the world—suffers from overpopulation, it may come to you as a surprise to learn that one of the most congested large areas on any continent is right here in the United States. And the people living there find it exceedingly pleasant. They would be shocked to learn they are environmentally underprivileged.

I am talking about New Jersey, the Garden State of our nation. With seven and one half million people, New Jersey is far more congested than China, India or Japan. If all of the people of the United States were moved to the State of Texas, it would be far less densely populated than New Jersey is today. If the population of California were increased by 140,000,000 people it would have approximately the same density as New Jersey. Now, we are talking about New Jersey's congestion on a statewide basis but the interesting truth is that more than half of the state is virtually undeveloped. The pine barrens covering several million acres of land in the southern part of the state are essentially as unpopulated as they were when Columbus discovered America.

While I would not recommend it, all of the people on earth today—all 3½ billion of them—could be placed on the New Jersey barrens and each person would have about five feet of space between him and his nearest neighbor.

I am presenting these dramatic—and some what shocking—truths as a means of driving home the need for reasonable and responsible approaches to all statistics dealing with conservation and environmental improvement. Please do not, however, gain the impression that I minimize the potential dangers inherent in overpopulation. Unabated growth over a long period of time can be a serious affront to living conditions throughout the world.

I challenge not the goals of those who set high standards in these fields. I do protest those—who, in search of headlines—march off in all directions and pervert good causes by futilely flailing at the windmills of legitimate change. Make no mistake about it, the environmental problems that confront our nation and the world are of major magnitude. But—they are not insurmountable. They can and will be solved. However, they will not be solved through protest marches and confrontations. They will be solved by harnessing the best brains of science, chemistry, physics, and engineering and then providing sufficient funds to cover the essential research and proper implementation. The price tag for these endeavors will be high. This burden—as in all things—will be borne by the public. However, the Federal Government will undoubtedly establish the priorities and push through a majority of the programs. Thus, at a time when many citizens are rebelling against the high cost of government, we can expect federal spending to continue its upward spiral as Washington comes to grips with this latest challenge.

FEDERAL FUNDS

Let's take a moment to examine the flood of funds that annually pours through the counting houses on the Potomac. To put the picture in proper perspective, let me read the primary plank in the election year platform of one of our major political parties . . . and I quote:

"We advocate an immediate and drastic reduction in Governmental expenditures by

abolishing useless commissions and offices, consolidating departments and bureaus and eliminating extravagance to accomplish a saving of not less than 25 per cent in the cost of Federal Government."

That—gentlemen—was the pledge and the promise of the Democrat Party in 1932. Federal expenditures in that historic year were $4 billion. A reduction of 25% was advocated; keep that dollar figure in mind. The bare bones figure for the new fiscal year that commenced last July first calls for expenditures of $205 billion. Can the human mind comprehend the magnitude of $205 billion?

How does it relate to expenditures of the past? Let us take the administrations of Washington, Adams, Jefferson, Madison, and Monroe. Let us take all of the administrations from the Revolutionary War, through the Civil War, through the Spanish American War, through World War One. Let us take all federal expenditures—for all purposes—through the 150 years of this nation's history . . . let us take them through and including 1941, the year that brought the United States into World War Two. In those momentous years of war and peace, of prosperity and depression, of growth and expansion, your Federal Government spent 25 billion fewer dollars than the total that will be expended in this current year. In fact, the interest on the Federal debt in this one year will exceed $15 billion . . . that's more than twice the cost of running the entire Federal Government in all its departments just thirty years ago.

Where does the money go? Who gets it? And why? It touches the rich. It touches the poor. It goes for payrolls. It goes for research. It goes for parks, housing, education, and social services. It lubricates the wheels of the free enterprise system as billions go to General Motors, Ford, Chrysler, Lockheed, Douglas, and other corporations for defense contracts. I do not propose to use a shotgun technique in tossing out statistics, but I do submit that the following human tabulations give a revealing measure of the depth and scope and range and size of some of our social programs that are financed with tax dollars.

This year the total cost of federal, state and local welfare programs will exceed $120 billion.

Each day 19,000,000 youngsters will receive school lunches.

Nearly 3,000,000 civilians will draw federal paychecks.

Another 3,000,000 in uniform will draw government checks.

Our defense industries—underwritten by Uncle Sam—pour paychecks into 4,000,000 homes.

Two and one half million farmers receive price-support loans.

Nine million families receive surplus food.

More than 19,000,000 persons receive government medical aid.

Twenty three million citizens receive Old-Age Insurance checks.

Tens of millions receive aid, assistance, and pay through Federal highway programs, housing, ship construction, and social rehabilitation programs.

And so it goes—across the width and breadth of our fair land. In large cities and small. In rural areas . . . in fishing villages in every social, economic, political, religious, and ethnic group you find increasing evidence of the role government is playing in the most expansive and most expensive womb-to-tomb social dream in the history of the world.

And—the end is not yet.

MORE PROGRAMS

In the months and years ahead, you can expect Uncle Sam to:

1. Increase subsidies for public education.

2. Extend public schooling through an additional four years.

3. Expand public employment to reduce or eliminate the jobless.

4. Fight for guaranteed annual incomes for all workers.

5. Extend medicare to the young as well as the old.

6. Establish a reverse income tax to provide cash benefits for those below a certain income level.

The list is long and ambitious. And—make no mistake about it—the lights burn late in many government offices as these far-out dreams are put into blueprint form for launching when the time is right. Are these social programs good? Do they serve the best interests of the greatest number? In some areas, I have doubts . . . but . . . certain facts are self-evident. None can deny these truths. Today, more people in these United States have more money than ever before. We earn more, save more, spend more—yes, and owe more—than ever before. In the past ten years we've experienced a national boom that staggers the human imagination. Since 1960, total gross national output in the United States have been increased $400 billion. That's nearly 80%. Corporate profits—after taxes—soared $25 billion. Up more than 80%. Personal incomes increased $300 billion and the number of people employed jumped a whopping 10,000,000. Personal savings skyrocketed $35 billion. In short, my friends—despite the current recession—the average guy in the street never had it so good. By his personal standards, therefore, we cannot knock, indict, and condemn the pump-priming social concepts that now maintain. These truths place a special burden on management in every area of business. For—as the costs of government increase, so, too, do the costs of private business. And—at this point—I regret to report that I can see no indication of a lessening of labor and tax pressures. You must, therefore, anticipate steadily rising costs and prices in all facets of our economy.

There is the hope and the expectation that mortgage money will ease in the months immediately ahead and there should be a slight softening of interest rates in the near future. This combination should be a stimulant to real estate sales and building construction.

Now, it is sad and ironical that despite the business boom of the past decade and despite monumental expenditures by the Federal Government, pockets of poverty still remain throughout the nation. One official report from Washington states that 8,735,000 families in the United States are impoverished. Now—what vision does your mind conjure? Do you picture a tidal wave of Negro families living in slum conditions? Well— revise your vision. Sixty six percent of these impoverished families—two out of every three—are white.

The uplift and improvement of these people—black and white alike—while preserving the dynamic strength of the American way—and while preserving individual rights and freedoms is a rewarding challenge for all of us.

We must give priority to transferring millions of men and women from relief rolls to payrolls. By so-doing we will create new sources of production and—at the same time—develop new markets for the goods that are produced.

I PROTEST

Now, in the closing minutes of my remarks, let me up-date some observations I made to this group three years ago. Let me once more address myself to the critics of our society and of our nation.

I am unalterably opposed to those who desecrate our flag, denounce our Constitution and extoll the virtues of Godless ideologies of other lands.

I protest those who campaign and petition and parade for individual rights but have no tolerance for the rights of those who oppose them.

I protest those who profess to champion peace but resort to terror, violence, and blackmail to make their points.

I protest those men of God who sow the seeds of conflict and encourage disrespect for temporal law and authority.

I protest broadcast commentators and newspaper writers who feed the flames of fear by allowing rumors, guesses, speculation, and conjecture to masquerade as fact.

I protest whites who preach hatred of blacks just as I protest blacks who preach hatred of whites.

In short, I protest those groups and individuals within our country who champion any system at variance with the basic concept of equal rights and equal opportunities—and equal responsibilities—that must be the hallmarks of our way of life.

Let me make it clear I have no apologies to make for my country or my generation. Never before in history or in any other land has a people accomplished so much, given so much, and asked so little. Four times in one lifetime we have involved ourselves in foreign wars. We have poured the flower of our manhood and the fortunes of our citizens into these battles against aggression, injustice, and tyranny. In these endeavors, we have never coveted a single acre of land nor sought to add a dollar to our national wealth.

Quite the contrary. We have used our material strength and financial fortunes to bind the wounds of the vanquished and we have given aid and sustenance to the impoverished in a hundred nations around the globe. Friend and foe alike. We have battled, too, for progress and betterment on the home front. In one generation we have conquered or controlled diphtheria, smallpox, typhoid, polio, measles, tuberculosis, and pneumonia. No longer do these ancient scourges sweep across our land leaving death and tortured limbs and minds and hearts in their wake.

We have built more schools and colleges and hospitals and libraries than all other generations since the beginning of time. We have trained and graduated more scientists, doctors, surgeons, dentists, lawyers, teachers, engineers, and physicists than did our forebears for a thousand years before. We have raised our standards of living and lowered our hours of work. Luxuries that were beyond the dreams of princes and potentates a generation ago are now available to all our people. The automobile, the radio, the telephone, the airplane, the computer, television, antibiotics, and a hundred other miracles have come to full flower in one generation.

We have taxed ourselves unmercifully to bring hope and health to our sick, our indigent, our young, and our aged. Each year our personal gifts to private charities exceed $14 billion . . . more than fifteen times the cost of running the entire Federal Government the year I was born.

OPPORTUNITY

We have done more to bring dignity and equality and opportunity to all minority grounds than any other generation has ever done in any nation since the dawn of history. Please understand I do not minimize the need for greater efforts in these areas. We have an urgent moral responsibility to move decisively in correcting injustices that have too long prevailed. At the same time, we must not minimize the progress that has been made.

A recent official report shows that since 1960 the number of Negro families earning more than $7,000 a year has increased more than 100%. In just four years the number of Negroes hired for professional jobs has climbed 35%. Total Negro employment has jumped more than 20%.

Today the average Negro in our nation is more likely to go to college than the average citizen—white or black—in England, Germany, Belgium, Denmark, Italy or Spain. We have more than 300 Negro millionaires in our nation. We have more Negroes sitting as judges . . . more in Congress . . . more in state legislatures . . . more in our city halls . . . and more in positions

of power than all the Communist nations of the world combined.

Yes, don't let anyone sell you the idea that ours is a sick society. It's far from perfect, but it is also far and away the most enlightened, most unselfish, most compassionate in the history of the world. I know what our generation has done. I'll stand on our record. We may not have scored as high as we hoped. But we scored higher than ever before.

And the end is not yet. There is still work to be done. There are still challenges to be met. There are still hopes to be realized. There are still goals to be attained. They'll not be attained by the preachers and teachers of despair. They'll not be attained by sniffing flowers or staging love-ins or hate-ins. They'll be attained by the unsung heroes of every generation. The workers who can dream. And the doers who can hope. They'll be attained by the men and women who believe in God, The Ten Commandments, our Constitution and our way of life; men and women who believe in a better and brighter tomorrow and are willing to work to that end.

TRIBUTE TO ABRAHAM LINCOLN

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. ESCH. Mr. Speaker, at a recent Lincoln tribute dinner here in the State of Michigan, our Governor, the Honorable William G. Milliken, delivered what I believe to be one of the more significant contemporary statements on the meaning of Lincoln's life. Although it is not my normal policy to habitually place speeches in the CONGRESSIONAL RECORD, I believe Governor Milliken's remarks are such that all of us without respect to partisan differences, can read with great profit. Thus it is my honor to share the following remarks of Governor Milliken, who, in his own right, has been a leader in the fight to end enslavement throughout his public life:

REMARKS BY GOV. WILLIAM G. MILLIKEN

LADIES AND GENTLEMEN: Five minutes is a pitifully short time in which to pay tribute to Abraham Lincoln, and yet, perhaps it is enough. What can one say about Lincoln in an hour that can't be said in five minutes, or even less for that matter? The central fact, the important fact, about him was his greatness, his nobility of spirit, a rare intelligence, and a moral passion that lifted him above other men—all combined with an abiding humility which kept him close to all men.

He was a good Republican, to be sure, but we have no right to claim him as our Party's personal property. For the fact is that he belonged then, belongs now, and will continue to belong to all Americans. The truly great men that our country has produced cannot be classified by party labels, for their greatness transcends the narrow limits of party programs and party philosophies. Lincoln himself turned continually to Jefferson in his continuing search for the meaning and the promise of America.

What would Lincoln do if he were alive today? I don't pretend to know, but one thing is certain—he would try to make things better, as he always strove to make himself better. Lincoln grew. It is no secret that he did not always believe in the emancipation of the slaves or the equality of the races. As much as any man, he was afflicted with the moral blindness of the time in which he lived. But he broke through the attitudes of his younger years to see the truth—that all men should be free.

He believed in the System; he worked within the System; and he fought to save the System. We despair now, some of us, anyway, that this system of ours is too flawed to work. But think of the System then, when Lincoln lived—a nation half-slave and half-free. Lincoln saved the Country because he believed in the System, and he believed in the System because he believed in the people.

In his first extended message to Congress, he said that the leading object of the government was "to elevate the condition of men—to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life . . ." That was how he saw the government—a government of the people that served the people and that would guarantee any person, even a person of the humblest origins, the right to occupy the White House.

In his deep and genuine humility, Lincoln would say to his audiences: "I presume you all know who I am. I am humble Abraham Lincoln. If elected, I shall be thankful; if not, it will all be the same."

Of course he was wrong, because if he had not been elected, this country would not be the same. He freed the slaves, and in the process, began the emancipation of the whites from the attitudes that enslaved them, too. As he changed and grew, so the people of this country continue to change and grow until one day, I am convinced, we shall have the society of equal justice and equal opportunity that Lincoln struggled and died for. Until that day, his truth goes marching on, and we can only follow it.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

HOUSE OF REPRESENTATIVES—*Monday, February 28, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Forgive us our trespasses as we forgive those who trespass against us.—Matthew 6: 12.

Our Father God, in this hallowed moment of prayer we come to Thee seeking light for our way, love for our hearts, and life for our souls.

Forgive us that so often we have not responded to the gentle touch of Thy spirit nor have we been receptive to the call of Thy Word to proceed in peace and to live in love.

During these holy days of Lent may we open wide the doors of our hearts and have our whole being flooded with the beauty and glory of Thy presence, then help us to forgive as we are forgiven, to love as we are loved, and to serve as we want to be served.

We pray for our President, may his efforts for peace and cooperation among the nations be fruitful in all good works and in all good ways: to the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1824. An act for the relief of Clinton M. Hoose;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 2846. An act for the relief of Roy E. Carroll;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 6998. An act for the relief of Salman M. Hilmy; and

H.R. 7871. An act for the relief of Robert J. Beas.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2423. An act to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of carriers and foreign air carriers in foreign air transportation, and for other purposes.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORTS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight tonight to file reports on certain privileged matters.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.